

# City of Eugene Human Rights Commission



**Meeting packet for Tuesday, February 18, 2020, 5:30 – 7:45 PM**

**99 W 10<sup>th</sup> Ave., Sloat Room, Eugene-OR**

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**Human Rights Commission Agenda for  
Tuesday, January 21, 2020, 5:30 – 7:30 PM  
99 W 10<sup>th</sup> Ave., Sloat Room, Eugene-OR**

**Human Rights Commissioners:** Joel Iboa (Chair), Ibrahim Coulibaly (Vice Chair), Ela Kubok, Ibrahim Hamide, Serena Markstrom, Rick Guerra, Bonnie Souza, Amanda McCluskey, Daniel Borson, Kirstin London, Councilor Emily Semple

**Human Rights and Neighborhood Involvement Staff:** Jennifer Lleras Van Der Haeghen, Fabio Andrade

The mission of the Human Rights Commission is to promote implementation of universal human rights values and principles in all City of Eugene programs and throughout the wider community. To carry out this mission the commission shall affirm, encourage and initiate programs and services within the City of Eugene and in the wider community designed to place priority upon protecting, respecting, and fulfilling the full range of universal human rights as enumerated in the Universal Declaration of Human Rights. To support and promote human rights, the commission will: provide human rights education, be proactive in human rights efforts, address human rights violations, ensure active public participation, be transparent and open, be publicly accountable for human rights progress.

Item	Description	Action	Time	Duration
1	Agenda/Minutes Review (Chair)	Discuss/Vote	5:30 - 5:40	10 min
2	Public Comment (Chair)		5:40 - 5:50	10 min
3	Support Requests (HIV Alliance)	Discuss/Vote	5:50 – 5:55	5 min
4	Decriminalization of homelessness - report	Presentation/Discussion	5:55 – 6:35	30 min
5	Housing policies	Presentation	6:35 – 6:45	10 min
6	Black History month	Presentation	6:45 – 7:05	20 min
7	EPD De-escalation	Presentation/Discussion	7:05 – 7:40	35 min
8	HRC Work Groups and Liaison	Updates	7:40 – 7:45	5 min
9	March HRC Meeting Agenda	Discuss	7:45 – 7:50	5 min

**The next scheduled meeting of the Human Rights Commission is on March 17, 2020.**

The Eugene Human Rights Commission welcomes your interest in these agenda items. This meeting location is wheelchair accessible. For the hearing impaired, FM-assistive listening devices are available or an interpreter can be provided with 48 hours' notice prior to the meeting. Spanish-language interpretation will also be provided with 48 hours' notice. To arrange for these services, contact staff at (541) 682-5177.

La Comisión de Derechos Humanos agradece su interés por participar en los asuntos de esta agenda. El local de la reunión tiene acceso para personas en silla de ruedas. Para las personas con dificultades auditivas ofrecemos sistemas FM para ayudarlo a escuchar, o intérpretes de lenguaje de señas. También ofrecemos intérpretes de español. Si necesita cualquiera de estos servicios por favor solicítelos con 48 horas de anticipación, llamando al (541) 682-5177.



## MINUTES

Eugene Human Rights Commission - HRC  
Atrium, Sloat Room  
Eugene, Oregon

January 21, 2019 - 5:30 p.m.

**PRESENT:** Rick Guerra, Kirstin London, Daniel Borson, Amanda McCluskey, Joel Iboa, Serena Markstrom, Jennifer Lleras Van Der Haeghen (staff), and Fabio Andrade (staff).

**ABSENT:** Councilor Emily Semple, Ibrahim Coulibaly, Bonnie Souza, Ib Hamide, and Ela Kubok.

### Opening

HRC Chair Joel Iboa called the meeting to order at 5:35 PM

### Eugene Police Department (EPD) Liaison

Lieutenant David Natt presented the EPD report on latest hate crimes and introduced the new EPD liaison to the HRC, Lieutenant Christopher Harrison. EPD will continue to provide quarterly reports moving forward. Recent hate graffiti cases are suspended with no more leads.

**Minutes Review** – November minutes approved as amended with 6 votes.

**Agenda Review** – Approved by unanimous vote.

### Requests for Support/Funding

**Disorient Film Festival** (March 12-15 ) was approved to receive \$500. Daniel Borson, Kirstin London, and Serena Markstrom volunteered to attend the event. Others are welcome to join.

**White Bird** - \$100 was approved to support publication of their resources guide.

**Asian Celebration** - \$250 was approved to co-sponsor the exhibit "Our Stories – Immigrants of America", which will happen during the Asian Celebration event February 15-16. Rick Guerra, Amanda McCluskey and Kirstin London volunteered to table at the event. Other are welcome to join.

### Census 2020

Jennifer Lleras Van Der Haeghen presented on City of Eugene preparations for reaching hard-to-count populations.

Follow-up questions: Utilization of branch libraries, mailing of census insert on utility bills, and flyers for distribution by partner organizations (HIV alliance, CAHOOTS, etc.)

Joel Iboa has information on funding available for organizations that want to support census efforts.



## HRC Chair election

Jennifer Lleras Van Der Haeghen and Fabio Andrade explained the election process for the runoff election since Joel Iboa and Ibrahim Coulibaly received 5 votes each in the November election. After secret balloting, Joel Iboa was elected chair with 6 votes. Joel Iboa nominated Amanda McCluskey and Rick Guerra for Vice Chair. Rick Guerra declined and Amanda McCluskey accepted the nomination and was elected as Vice Chair by unanimous vote.

## International Human Rights Day - IHRD

After commissioners presented suggestions of speakers and themes for IHRD, the education and Outreach Work Group was assigned to work on planning an event for December 10, 2019. The HRC authorized the group to spend up to \$1,000 for this event.

## Work Group and liaison Updates

**Serena Markstrom – Homelessness and Poverty work group** – written updates included in the January meeting packet. Requested that a presentation and discussion of decriminalization of homelessness be scheduled for the February HRC meeting. Serena also mentioned that the group is planning on a showing of the movie Invisible Class to increase awareness of homelessness issues.

**Amanda McCluskey – Police Commission** – Looked into combining some arrest policies and use of pepper ball projectiles policies. EPD is considering utilizing this non-lethal option, which has not been in use for years.

**Daniel Borson – WeCU** – Group discussed Multicultural Liaison hiring and Multicultural Center proposal. WeCU is waiting for new ED liaison to get familiar with his position to meet with his team of marginalized communities' liaisons.

**Daniel Borson – Triple Bottom Line (TBL) Sounding Board** – Meeting focused on expanding the urban growth boundary. The group discussed applying TBL to regions identified for expansion.

**Ela Kubok – Civilian Review Board** – The board discussed recommendation for training.

**Housing Policy Board** – Rick Guerra will replace Serena Markstrom as liaison to this group. Amanda McCluskey continues as backup.

**Rick Guerra – International Human Rights Day** – Over forty people attended the event. The keynote address by Clarice Wilsey was very interesting and the panel conversation provided insights on how different communities experience hate and bias in Eugene.

**Rick Guerra – MLK award nomination process** – The Education and Outreach work group will work on updating the nomination process for the upcoming years.



## HRNI Updates - Fabio Andrade

Fabio Andrade talked about the recruitment process for new HRC commission member. Three spots are available for the 2021-2024 cycle and applications will be accepted until March 1 via the city of Eugene website. Joel Iboa, Kirstin London, Rick Guerra, and Amanda McCluskey volunteered to review applications. Updates conclude with review of invitations and events included in the meeting packet.

## February agenda:

- The Homelessness & Poverty work group will present a report and recommendations on decriminalization of homelessness.
- HRNI will offer a presentation related to Black History Month

## Meeting adjourned at 7:30pm

Recorded by Fabio Andrade

**An audio recording of this meeting is kept by the Human Rights and Neighborhood Involvement Office**



**ANDRADE Fabio**

**From:** no-reply@ci.eugene.or.us  
**Sent:** Monday, February 10, 2020 11:31 AM  
**To:** Human Rights and Neighborhood Involvement; ANDRADE Fabio  
**Subject:** Online Form Submittal: Human Rights Commission Request for Support

[EXTERNAL 

## Human Rights Commission Request for Support

### Human Rights Commission Request for Funding

*The City of Eugene allocates funds each fiscal year to the Human Rights Commission (HRC) to use to support community events. Applications must be submitted complete with a full explanation of the funding request. All requests must be submitted 10 days prior to the HRC meeting (3rd Tuesdays) in advance of the event or project start date. Timely submission assures that requests are discussed and approved for funding. Having a representative at the HRC meeting to answer questions about the request is strongly encouraged. Please note that if funding is approved, the commission requires a follow-up report within 30 days of the event. Recipients may submit a written report or may attend the next commission meeting to present a brief verbal report. Photos are encouraged but not required. Failing to provide a report may result in denial for future funding.*

Date of Event	3/25/2020
Date Funding Required	2/10/2020
Please describe the event/activity for which you are requesting support and/or funding	<p>The HIV Alliance will be having an LGBTQ2S+ Health Fair on 3/25/2020. The event is in support of the larger LGBTQ2S+ health week. The event will be held at Spectrum Lounge. Several of our community partners will be tabling with information, we will have a health care provider to answer general questions, and the Imperial Sovereign Court of the Emerald Empire will be hosting bingo. We will have some healthy snacks and hold a raffle. We are requesting funding for:</p> <p>\$100: Raffle Item  \$100: Healthy Snacks/foods</p>
Level of Support Requested	Co-sponsorship: up to \$200 for event with HRC involvement
How much is the request for?	\$200
Name of Support and/or Funding Recipient	
Organization (if applicable)	HIV Alliance
Applicant's First Name	Rebecca

Applicant's Last Name	Noad
Address (for mailing check)	1195A City View St.
City	Eugene
State Name	OR
ZIP	97402
Email	rnoad@allianceor.org
Phone	541-342-5088
Extension	193
Payment should go to:	Organization Listed
How does this request align with the work of the Human Rights Commission? What will these funds be used for specifically (if applicable).	THE LGBTQ2S+ Health Fair aligns with the goals of the Human Rights Commission because it promotes and educates about LGBTQ2S+ health care issues and concerns which still tend to be ignored by mainstream health care. Often, members of the LGBTQ2S+ community must find specialty providers and travel for appropriate health care. In addition, members of this community are often under educated about their specific health care needs. This health fair will help educate community members and promote LGBTQ2S+ health issues and concerns.
Who are the other community partners and what is their level of involvement?	<p>We have invited the following organizations to table and provide information:</p> <p>Lane County Public Health</p> <p>Trans*ponder</p> <p>U of O LGBTQ+ Center</p> <p>Lane GSA</p> <p>White Bird</p> <p>Sara Rundlet-LGBTQ2S+ Behavioral Health Provider</p> <p>Women's Care</p> <p>Planned Parenthood</p> <p>ProBono</p> <p>Noisette Pastry Kitchen</p> <p>Trans* housing</p> <p>MeCHA</p> <p>Sexual Assault Support Services</p> <p>Dr. Walter, LGBTQ2S+ Health Provider</p> <p>Looking Glass</p> <p>Unitarian Church</p> <p>Imperial Sovereign Court of the Emerald Empire</p>



Is this event:	Wheelchair Accessible?, Open to the general public?
I acknowledge that by receiving funding to support this event that I am responsible for providing a brief report back to the HRC within 30-days of the event. Failure to provide this report either in writing or in person at a HRC meeting may result in denial for future funding.	I understand
<p>Electronic Signature</p> <p><i>By providing the information below and electronic signature, I certify that I have read and understood the submittal requirements outlined, and that I understand that omission of any listed item may cause delay in processing the application. I (We), the undersigned, acknowledge that the information supplied in this application is complete and accurate to the best of my (our) knowledge.</i></p>	
I am the:	Applicant
Full Name of Applicant representative	Rebecca Noad
Email of applicant's representative	rnoad@allianceor.org
Electronic Signature	Sign

Email not displaying correctly? [View it in your browser.](#)

**Persecution of the Unhoused:**  
**Fines and Jail Time**  
**for Having Nowhere Else To Go**  
*in*  
**Eugene, Oregon**

This report was prepared by Lane County Legal Aid/Oregon Law Center (OLC). Laurie Hauber, Staff Attorney at OLC and Talitha Randall, former OLC intern and law student at University of Oregon School of Law, co-authored this report. Special thanks to Heather Sielicki for her insights and formatting expertise, and to the members of the Eugene Human Rights Commission Homelessness and Poverty Work Group for their invaluable feedback. For more information please contact Laurie Hauber at [LHauber@oregonlawcenter.org](mailto:LHauber@oregonlawcenter.org) or 541.485.1017 x332.

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## I. EXECUTIVE SUMMARY

### Background

2,165 people were reported as homeless according to the Lane County 2019 Unsheltered Point in Time Count, which is a 32% increase compared to the total number of unhoused in 2018. Most of this increase was in unsheltered homelessness -- 75% of the total 2019 count were individuals experiencing unsheltered homelessness.<sup>1</sup> 1,893 people counted were located in Eugene, which is 87% of the total County PIT Count. It also is important to note that the vast majority of people who are unhoused are from the local community. In other words, only a small percentage of people move somewhere new after becoming unhoused.<sup>2</sup>

As multiple studies demonstrate, the shortage of housing options, which has led to rising rents and an increase in evictions, coupled with stagnant wages, are primary contributors to homelessness.<sup>3</sup> As a United Way report on homelessness in Southern California concluded, the most significant factor leading people to homelessness is the “gap between the availability of affordable housing and work that pays a wage sufficient to enable the economically marginal to access that housing.”<sup>4</sup> The mean wage in Lane County is \$12.97 yet the wage needed to afford a two bedroom apartment rental is \$17.10.<sup>5</sup> In fact, according to several sources, at least half of the homeless population at any given time has part or full time employment.<sup>6</sup>

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<sup>1</sup> [lanecounty.org/homelesscount](http://lanecounty.org/homelesscount). Unsheltered includes people living in “alternative to shelter” programs, including Opportunity Village, Dusk to Dawn, Rest Stops and Car Camping. Only 25% of these unsheltered individuals were located in one of these shelter options, the rest were without any form of sanctioned shelter.

<sup>2</sup> See, e.g.,

<https://www.registerguard.com/rg/opinion/36288243-78/myths-get-in-the-way-of-solutions.html.csp>;  
<http://www.eugeneweekly.com/2017/09/21/housing-first-for-homeless/>;  
<https://www.registerguard.com/opinion/20191019/guest-view-winter-brings-worry-for-unhoused>

<sup>3</sup> Nationwide, there are only 35 units of housing that are affordable and available per every 100 very low income households. Housing Not Handcuffs 2019: Ending the criminalization of Homelessness in U.S. Cities, National Law Center on Homelessness and Poverty, December 2019, at pg 11. <http://nlchp.org/wp-content/uploads/2019/12/HOUSING-NOT-HANDCUFFS-2019-FINAL.pdf>. [Herein after HNH 2019]. In Lane County the lack of housing is even more severe -- there are only 15 units per 100 renter households at or below 30% AMI. <https://www.oregon.gov/ohcs/DO/shp/profiles/Lane-County-Housing-Profile.pdf>. See also, Understanding the Issue: Causes of Family Homelessness, Portland Homeless Family Solutions (find link); The Corvallis Advocate, Cyclic Causes of the Homeless Crisis

<sup>4</sup> Orange County Catholic Worker, et al. v. Orange County, et al., Settlement Agreement, July 19, 2019. <file:///F:/lclac/Laurie%20H/homelessness%20general/Boise/SO%20CAL%20County-settlement-agreement-in-homelessness-lawsuit-july-2019.pdf>

<sup>5</sup> <https://www.oregon.gov/ohcs/DO/shp/profiles/Lane-County-Housing-Profile.pdf>. See also, United Way of Lane County Alice Report. <https://static1.squarespace.com/static/5b6a0acf9d5abb96252f10af/t/5bad5917a4222fd80679a1d8/1538087192110/ALICE+Lane+County.pdf>

<sup>6</sup> See, e.g., Causes of Family Homelessness, Portland Homeless Family Solutions; The Corvallis Advocate, Cyclic Causes of the Homeless Crisis.

## Purpose of report

The purpose of this report is to demonstrate the benefits of implementing alternatives to criminalization of the unhoused in Eugene by highlighting the myriad of adverse consequences caused by penalizing people due to their unhoused status. Whether intentional or not, punitive measures against people who are unhoused create additional, often insurmountable barriers for people to access housing and employment. Moreover, maintaining the current system is very expensive, it is far less costly for people to have housing. Therefore, examining and modifying existing laws that criminalize people for being unhoused not only is imperative for the individual in order to transition from homelessness, it also provides a significant cost savings to the City. This report enables City leadership and local government agencies to make immediate changes to existing laws and policies as it contains the data and analysis needed for such a review.

## Scope of report

### Quality of Life Laws

The focus of this report is on the four quality of life laws that most commonly are the basis for criminal and civil penalties imposed on the unhoused in Eugene -- prohibited camping, criminal trespass II, violation of park rules, and open container. Quality of life offenses, by their nature, disproportionately impact the homeless.<sup>7</sup> People only get them because they are unhoused and have no legal place to go. Unhoused people get prohibited camping for resting in public places; they get criminal trespass II for resting on private property; they get violation of parks rules for resting anywhere in the thousands of acres of park land throughout Eugene; and they get open container for not having a home in which they can drink. These quality of life laws are discussed in detail in Part IV of this report.

### Impoundment of Vehicles

This report also examines the impoundment of vehicles in which people are living since this disproportionately impacts individuals and families who are without stable housing. See [Part IV](#) for details about the laws and practices involving the impoundment of vehicles.

### Encampment Policies

It also looks at camp closures and sweeps, as these events often involve a citation and in some cases arrest, causing further disruption in the lives of people who are unhoused since they do not have legal locations to which they can relocate. Encampment policies are discussed in detail in [Part IV of this report](#).<sup>8</sup>

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<sup>7</sup> Quality of life laws are those that “discriminatorily target, are selectively enforced against, or disproportionately affect people experiencing homelessness.” Howard, Joshua and David Tran, *At What Cost: The Minimum Cost of Criminalizing Homelessness in Seattle and Spokane* (2015). As of August 19, 2019:

<https://digitalcommons.law.seattleu.edu/cgi/viewcontent.cgi?referer=https://www.google.com/&httpsredir=1&article=1000&context=hrap>.

<sup>8</sup> There are several other local ordinances that disproportionately impact the unhoused that are not covered in this report due to the relatively smaller number of violations issued pursuant to these other ordinances. For a complete list of ordinances see Appendix D. In addition, several county and state agencies have laws and policies that disproportionately impact the unhoused, such as Lane County, Lane Transit District (LTD), Bureau of Land Management (BLM), and Oregon Department of Transportation (ODOT). While their policies and practices fall outside the scope of this report other than

## Data Analysis

We examined [municipal court data](#) for the four quality of life laws mentioned above in order to understand the scope of the problem, including the number of people impacted, the number of citations issued to unhoused individuals in each category, and the amount in unpaid fines owed by these individuals. Please refer to Appendices [A](#) and [B](#) for the detailed analysis of this Municipal Court Data and an explanation of our methodology.

Beyond an analysis of the data, we attempted to assess the [costs to the city](#) and by extension, all citizens of Eugene, to maintain the current system of criminalization.

We also researched the efforts [other cities](#) have made to decriminalize homelessness and the benefits of doing so. To understand the efforts of [other jurisdictions](#), we not only analyzed hundreds of city codes, we also reviewed recent lawsuits that challenged the constitutionality of [punishing individuals for having nowhere to rest and sleep](#). Based on the severe impact existing laws and practices have on our unhoused population, and the cost reductions and other benefits experienced by cities that have made efforts to decriminalize their laws and practices, this report provides a series of ordinance and policy recommendations to benefit the entire community as the criminalization of the unhoused impacts the quality of life for all citizens of Eugene.

## Consequences Of The Criminalization Of Homelessness

Housing is a human right, yet millions of Americans are forced into homelessness because they are unable to access housing. In Lane County there are only 15 housing units for every 100 people whose income is below 30% of the area median income (AMI). Debt, jail time, arrest warrants, and move-along orders put housing out of reach, violating a person's human and civil rights. Citing people who are homeless and have nowhere else to go violates people's constitutional rights to equal protection under the law as the selective enforcement of these quality of life laws disproportionately impacts people who are homeless, a significant percentage of whom are disabled and/or seniors. In fact, national data indicates that the fastest growing group of people who are becoming homeless are seniors on fixed incomes, many of whom are women and/or have a disability.<sup>9</sup> In Lane County, for instance, more than half of the 3,700 unhoused people who receive a meal at the Eugene Mission or participate in Dusk-to-Dawn are people with disabilities.<sup>10</sup>

Criminalizing people for unavoidable, life sustaining human behaviors also contradicts Eugene's own Human Rights Code, which urges removal of barriers to housing.<sup>11</sup> Moreover, preventing people from sleeping is contradictory to the stated purpose of Eugene's Human Rights Code as it

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EPD's enforcement of these agencies' prohibited camping rules, they should be examined as well. There are numerous documented instances where enforcement practices by these agencies violate the rights of the unhoused.

<sup>9</sup> See, e.g., "The growing risk of senior homelessness," Register Guard, Opinion, February 11, 2020.

<sup>10</sup> POVERTY AND HOMELESSNESS BOARD Shelter & Supportive Housing Development Committee Minutes, November 18, 2019, based on information in the Homeless Management Information System (HMIS) regarding service contacts.

<sup>11</sup> Eugene Code 4.613. The Purpose section states in part, "... that the City's intent is for all people to have "equal opportunity to participate fully in the life of the City and that discriminatory barriers to equal participation in employment, housing and public accommodations be removed."

demonstrates a lack of value for people's dignity and worth.<sup>12</sup> Sleep is essential, not only to basic survival, but also to transitioning to a more stable situation.

### **For The Individual**

Despite the lack of affordable housing supply and stagnated wages, despite the dramatic increase in unsheltered individuals in Lane County, and despite the limited number of places where one is permitted to shelter, Eugene continues to punish people for sleeping or resting outside. A revolving door of defendants in Municipal Court, and repeated citations and arrests that result from having no legal place to go, creates yet another significant obstacle to securing housing and employment.

All of the violations discussed in this report involve a fine, ranging from \$200 to as high as \$1,000. People who are unhoused do not have the ability to pay a fine, even one for \$200 and, therefore, they continue to accumulate debt, exacerbating their situation and keeping them in a cycle of homelessness that becomes increasingly difficult to overcome. Unpaid fines are highly detrimental to a person's credit score, which often keeps people from being able to secure housing. In certain circumstances unpaid fines lead to a license suspension and/or vehicle impoundment, which can make it impossible to maintain a job and certainly more difficult to find employment. Court debt not only is a barrier to securing housing and employment, there also is a psychological impact on people knowing they have debt that they cannot pay.

With the exception of prohibited camping, all the other quality of life violations covered in this report are punishable by not only a fine, but also the possibility of jail time. If the person fails to appear at a scheduled hearing for a violation that is a jailable offense, a warrant for their arrest could be issued. These people now are forced to live in fear of arrest, which often means they are less likely to seek supportive services and more likely to locate in areas that make access to services more challenging, increasing their risk of being a victim of crime and creating more stress. Following Denver's passage of an anti-camping ban, for instance, a survey among several hundred homeless people indicated that over 60% moved to more hidden locations and many respondents reported that they were victims of crime as a result.<sup>13</sup>

The possibility of jail time is even more devastating to a person's well-being and ability to change their situation. Serving days in jail is itself an impediment to maintaining employment. A criminal record, even an arrest with no conviction, can be a serious obstacle in gaining employment and securing housing. Many employers refuse to hire someone with a criminal conviction and landlords often refuse to rent to someone with a criminal history.<sup>14</sup> Even in situations where people are part

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<sup>12</sup> EC 4.613.

<sup>13</sup> HNH 2019, pg 11.

<sup>14</sup> While the HUD Office of General Counsel Guidance on Application of Fair Housing Act Standards to the Use of Criminal Records by Providers of Housing and Real Estate-Related Transactions, April 4, 2016 limits the circumstances under which criminal history can be a basis for denial of a housing application, in reality the practice continues.

[https://www.hud.gov/sites/documents/HUD\\_OGCGUIDAPPFHASTANDCR.PDF](https://www.hud.gov/sites/documents/HUD_OGCGUIDAPPFHASTANDCR.PDF)



of a formal program where they are receiving intensive services to transition from homelessness, landlords still reject for a wide range of criminal histories. These individuals also have additional hurdles to overcome to access housing given low credit scores. Those not in a program, on the other hand, face even greater obstacles in overcoming their credit scores or prior criminal histories to secure housing.

While this report focuses on legal violations, it is important also to consider the toll on the individual and added societal cost from the threat of a citation, simply being told to move along. Although this could be considered more compassionate than issuing a citation or making an arrest, it forces people into more remote, less secure settings and also undermines a person's ability to secure employment and even get proper sleep. Lack of sleep, in turn, can cause health problems for the individual and related health care costs borne by the community at large.

A woman in her 50's who has lived her entire life in Eugene and became homeless within the past two years because she was unable to pay her rent after losing a job, talked about the challenges in obtaining employment because she is forced to move her campsite every few days. As she explained, she could not be a dependable worker since she would have to miss work often to move her belongings and relocate. She feels like Eugene as a community has let her down -- she was an employed, tax-paying contributor for her entire adult life and now that she is unhoused, she is beaten down further and not given any support so she can save money and get back into housing.

### **For The Community**

Continuing to issue citations that people cannot pay is costly for the entire community. As mentioned in ["Key Findings"](#) in Part II of this report, and discussed in greater detail in [Part V regarding costs](#), the financial costs to a city to impose citations and arrest people who are unhoused are tremendous. Policing the homeless for their mere status of being unhoused diverts much needed resources away from addressing crime that is a real threat to public safety, as well as overcrowding our court system and our jails.

As the Department of Justice wrote in its brief in the *Martin v. City of Boise* case, "[i]t is neither safe nor appropriate to put law enforcement on the front lines to resolve mental health, substance abuse and housing crisis when what people who are experiencing homelessness really need is adequate services."<sup>15</sup> As a community it is costly and ineffective to rely on police officers to be the front lines in dealing with homelessness. Modifying our laws will not only reduce costs, it will allow our law enforcement agents to focus on public safety, their core responsibility and what they are trained to do. In addition, being the first responders and having to enforce quality of life laws against people who have nowhere else to go promotes mistrust of the police and makes it less likely that people will seek protection from police when needed. Finally, to the extent a goal of punishment is reformation, there is no ability for a person to reform through a court appearance, a citation and/or a misdemeanor with the threat of jail time for trying to survive when there are no accessible options to change their situation.

Sweeps also are costly for cities. Sweeps simply displace people temporarily, and in most instances force people to move to another location that then will need to be cleared, incurring more costs and

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<sup>15</sup> F.3d 584 (9<sup>th</sup> Cir. 2019), page 920.

often putting people in a more vulnerable situation. As the U.S. Interagency Council on Homelessness (USICH) has confirmed, forcibly dispersing encampments can make it more difficult for people to transition to housing and access services.<sup>16</sup> The USICH 2015 report sets forth a list of strategies for cities to follow to establish temporary encampments with effective outreach and engagement with service providers, only closing camps if alternative housing and shelter is available.<sup>17</sup> The recommendations in that report are counter to the conduct in Eugene where campsites are disbanded after a mere 24 hour notice, without contact with a trained outreach worker and without being given an accessible alternative shelter option. In addition, encampment sweeps present a public health issue as a camp closure means people are forced to dispose of their waste elsewhere. Sweeps also often result in people losing their only form of shelter and some, if not all of their possessions, resulting in increased stress and sleep deprivation. Sleep deprivation itself leads to serious mental and physical health issues, which is a cost to the entire community.

Even the medical field has taken a position against the criminalization of homelessness, recognizing the harm to the individual and high costs to the system. In 2019 the American Medical Association passed a resolution, which in part stated that it, “opposes laws and policies that criminalize individuals experiencing homelessness for carrying out life-sustaining activities conducted in public spaces that would otherwise be considered non-criminal activity.”<sup>18</sup> In 2017 the American Public Health Association issued a statement similar to the AMA resolution, stating that laws that target activities associated with homelessness are both ineffective and costly to enforce, and “serve as a barrier to income and housing stability.”<sup>19</sup>

## Lack of Shelter Options

According to the 2019 PIT, only 25% of the unsheltered individuals are in some form of alternative shelter program. This means among the 1,633 people who are unsheltered, 1,222 are in violation of a law wherever they choose to rest or sleep. There literally is no square inch in Eugene where they are legally allowed to exist.

As the 9th Circuit in the *Boise* case wrote, a person is involuntarily homeless when, “there is a greater number of homeless individuals in [a jurisdiction] than beds available [in shelters].”<sup>20</sup> While Eugene has created shelter options in response to community advocacy, and certainly is better than many other cities around the country with respect to the range of temporary shelter options available, only a limited number of the unhoused can be served due to the fact that the

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<sup>16</sup> U.S. Interagency Council on Homelessness, Quick Guide: Ending Homelessness for People Living in Encampments 2 (2015), [https://www.usich.gov/resources/uploads/asset\\_library/Ending\\_Homelessness\\_for\\_People\\_Living\\_in\\_Encampments\\_Aug2015.Pdf](https://www.usich.gov/resources/uploads/asset_library/Ending_Homelessness_for_People_Living_in_Encampments_Aug2015.Pdf).

<sup>17</sup> *Id.*

<sup>18</sup> HNH 2019 page 73, citing, Report of the Board of Trustees: Opposition to Measures that Criminalize Homelessness (Resolution 410-A-18), AM. MED. ASS’N (2019), <https://www.ama-assn.org/system/files/2019-04/a19-bot28.pdf>.

<sup>19</sup> HNH pg 73, citing Housing and Homelessness as a Public Health Issue, AM. PUB. HEALTH ASS’N (2017), <https://apha.org/policies-and-advocacy/public-health-policy-statements/policy-database/2018/01/18/housing-andhomelessness-as-a-public-health-issue>

<sup>20</sup> *Martin v. City of Boise*, 920 F.3d 584,617 (2019).

demand for these spaces exceeds total supply. Shelter spaces in every program are reported to be at capacity and have wait lists. For instance, Dusk to Dawn, which houses up to 200 unhoused individuals, filled by October and had 30 individuals on the waitlist as early as October 1st.<sup>21</sup> In addition, based on a report provided to the City by St. Vincent de Paul (SVdP), as of Nov 5th there were 80 people in legal car camping sites, with a waiting list of 150 people.<sup>22</sup> In general, it takes 90 days to get off the waitlist and find a legal place to park one's vehicle. Therefore, for all practical purposes most people do not have a legal place to go, which is particularly problematic during the rainy cold months where the risk of hypothermia significantly increases. Moreover, even when shelter beds are available, they often are not truly accessible. There are multiple barriers that prevent someone from entering mass shelter, such as separating family members, mental and physical disabilities that cannot be accommodated or that prevent someone from handling large group settings, noticeable alcohol or drug related impairment, fear if undocumented, gender non-conforming, to name a few. Not having secure space in a shelter to store possessions can be yet another barrier.

## Prior Decriminalization Efforts

Over the years there have been several significant, city wide attempts to address the problems associated with the criminalization of homelessness, most recently in 2011-12 and again in 2015-16. Despite these efforts, existing laws and policies have not been reviewed and changed, and people continue to suffer civil and criminal penalties for being unhoused. In fact, quite the contrary has happened in recent years – additional laws and administrative orders have been passed that add to the web of violations that entrap homeless people, increasing the barriers and unintended consequences that keep people unhoused.<sup>23</sup> Unlike prior efforts, this report provides the data and analysis for the City leadership to use to make changes to existing laws and policies.

In 2012, in response to Occupy Eugene, former Mayor Piercy formed a task force charged with creating a series of innovative solutions to address issues involving homelessness. One of the core recommendations identified for immediate action was for the City to conduct a comprehensive review and propose revisions to ordinances and policies that criminalize life-sustaining activities and/or create barriers to housing or shelter.<sup>24</sup> Despite this strong recommendation, a review was not conducted nor were any changes to laws and policies made. Our understanding is that action was not taken on any of the recommendations that the task force made.

In 2015, following a joint meeting at which the Human Rights Commission made "asks" of the City Council, the City Manager invited a group of local, state, regional and even national experts on homelessness to identify barriers to securing housing and jobs by the unhoused in Eugene. The two

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<sup>21</sup> Terry McDonald, "Winter brings worry for the unhoused," Register Guard, Opinion, October 19th OpEd in the Register Guard. <https://www.registerguard.com/opinion/20191019/guest-view-winter-brings-worry-for-unhoused>

<sup>22</sup> Email exchange with Regan Watjus, Policy Analyst, City Manager's Office, November 15, 2019.

<sup>23</sup> It is important to note that the City has made some effort to mitigate the barriers created by imposing penalties on people for being unhoused through the initiation of Community Court.

<sup>24</sup> Opportunity Eugene: A Community Task Force on Homelessness Final Report and Recommendations, 2012 pg 3,6. <https://www.eugene-or.gov/DocumentCenter/View/4272/Opportunity-Eugene-Final-Report?bidId=>

predominant barriers identified by these experts were the enforcement of laws against homeless people when there are inadequate alternatives and the lack of affordable housing in general. While City Council and the City Manager reviewed the input received from these experts, it did not result in a review of or changes to existing laws. The one “action item” that came out of this joint meeting was a resolution that City Council passed in 2016 promoting a housing first model.<sup>25</sup>

## Conclusion

For all the reasons highlighted in this Executive Summary, the practice of issuing citations, making arrests, closing encampments and impounding vehicles must change until there are lawful places for all people to sleep, not just the fortunate ones who make it into one of Eugene’s existing temporary shelter options. As the City and County embark on a resource and time intensive effort to develop adequate shelter and housing that is accessible to all its citizens, changing laws, policies and practices that disproportionately impact the homeless is critical to this effort. Without this decriminalization component as an interim measure, full implementation of the Lane County Shelter Feasibility Study (TAC Report) cannot be realized. People need legal safe places to engage in daily life sustaining activities while the City and County work to make the investment necessary to increase housing options. As our Chief of Police has stated on several occasions, we cannot police our way out of this problem. This report provides a foundation from which alternatives to decriminalization can be initiated.

This report begins with our key findings and recommendations of specific ordinance and policy changes, followed by: (i) a more detailed discussion of each violation, (ii) the costs of penalizing the unhoused, (iii) decriminalization efforts in other cities, (iv) outcomes of relevant court cases in other jurisdictions; and (v) data analysis summaries.

## II. KEY FINDINGS

We examined multiple data sources to gain an understanding of how the four quality of life laws, along with impoundments and sweeps, impact the unhoused population in Eugene.<sup>26</sup> Our analysis included data from Municipal Court, Eugene Police Department, and Public Works.<sup>27</sup>

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<sup>25</sup> Eugene Council Resolution No. 5153, A Resolution Declaring the City of Eugene’s Commitment to the Housing First Model as a Key Strategy to Addressing the Housing and Homelessness Crisis, May 9, 2016.: [https://www.eugene-or.gov/DocumentCenter/View/31648/Res-No-5153\\_Housing-First?bidId=](https://www.eugene-or.gov/DocumentCenter/View/31648/Res-No-5153_Housing-First?bidId=)

<sup>26</sup> There were limits to what agencies collect and can produce and, thus, there are gaps in our research. For instance, the City does not require SVdP to submit a report of warning notices they give to people living in vehicles pursuant to Police Policy 410, nor does EPD track the daily reports that EPD provides SVdP in order for SVdP to give the 24-hour warning notices prior to citation and impoundment. Without this information we have no way of determining with reasonable accuracy the number of people living in their vehicles or how frequently a 24-hour warning leads to a vehicle impoundment. This also means we could not confirm whether EPD is following its own stated policy of only taking action in response to a 24 hour notice.

<sup>27</sup> We examined municipal court data from January 1st, 2018 through May 31st, 2019 for the four quality of life violations that are covered in this report. We also reviewed data from EPD on notices of restrictions of use for violations of park rules and dispatch calls involving prohibited camping. To understand how sweeps are handled, we examined a random sampling of work orders issued by Public Works involving homeless camps during this seventeen month time period. We

## Data analysis

We had a two pronged analysis with the Municipal Court Data. We looked at every single docket entry for the month of June and used that information to determine the number of unhoused individuals and the quality of life violations most frequently given to the unhoused. Based on this information, we then examined the four main quality of life violations from January 1, 2018 to May 31<sup>st</sup>, 2019 (prohibited camping, criminal trespass II, violations of park rules and open container). To review the detailed analysis of this Municipal Court data please see Appendices [B](#) and [C](#).

### 4 Quality Of Life Citations:

- ☐ Unhoused people are 14 times more likely to receive the four quality of life citations than housed people.
- ☐ Over a quarter of Municipal Court's docket (thus costs) is devoted to these 4 quality of life offenses.
- ☐ On average 83% of all quality of life citations and arrests went to unhoused people during the 17 month period evaluated.
  - 100% of all prohibited camping citations
  - 88% of all violation of park rules
  - 80% of criminal trespass II
  - 80% of open container
- ☐ An average of 3.4 Criminal Trespass II violations were issued to unhoused people each day (1,759 total)

### Other relevant Municipal Court data

- ☐ Of the 2,608 violations for which hearings were scheduled on the June 2019 Municipal Court docket, 34% (890) went to 222 unhoused individuals.
  - Criminal Trespass II is the most common quality of life violation heard in Municipal Court among unhoused people (295 out of 890, or 33%)
  - 70% of these 222 unhoused individuals were cited at least once for Criminal Trespass II
  - 40% received a violation of park rules and for many, a restriction of use for parks as well
  - 27% received one or more prohibited camping citation and

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also spoke with several people in these different departments for clarification regarding the data. In addition, we reviewed the EPD impoundment reports that we were able to obtain for prohibited camping.

- 20% of these 222 were cited for open container.
- ❑ As of July 2019, 128 individuals had active Notices of Restrictions of Use for Parks, 87 of whom were banned from ALL park space for an ENTIRE YEAR.
  - Virtually all of these notices were accompanied by a citation for violation of parks rules (64 citations) or for criminal trespass II (58 citations).
- ❑ 60% (133) of the unhoused on the June docket owe more than \$1,000 in fines to the City, 48 of whom owe more than \$5,000.
  - When unpaid fines are turned over to a collections agency Municipal Court adds an additional 25% to the total outstanding amount. The collections agency also adds interest that accrues daily.

### **Camp cleanup (“sweeps”) data**

- ❑ 99% of camp sites were in obscure areas of parks or open spaces far away from foot traffic, residential areas or schools.
- ❑ In very few instances are work orders for camp cleanups initiated by complaints. This strongly suggests that in almost all instances Public Works employees are initiating these clean-up efforts simply by observing someone who they consider as camping or violating another park rule, without consideration for whether there is a health or safety threat to the camper or others.
- ❑ Under 5% of work orders showed that belongings left behind were stored, almost all noted cleanup consisting of trash disposal only. As discussed in the Sweeps section in Part IV of this report, this directly contradicts the anecdotal information we have heard from numerous sources that state that people’s valuable belongings often are discarded by Public Works.

### **Vehicle impoundment data**

- ❑ 17 vehicles each year were impounded in 2017 and 2018 for prohibited camping. These numbers do not include vehicles being used as shelter that were impounded for another violation that disproportionately impacts the unhoused, such as storage of a vehicle on the street, driving with a suspended license or driving uninsured.

### **Costs**

- ❑ Studies in other cities have shown that the cost of policing laws against the homeless is staggeringly high:
  - \$50 million per year in Los Angeles simply policing quality of life laws and \$87 million on law enforcement related to homelessness.<sup>28</sup>

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<sup>28</sup> HNH 2019 page 71, citing Gale Holland, L.A. Spends \$100 Million a Year on Homelessness, City Report Finds, L.A. TIMES (Apr. 16, 2015), <https://www.latimes.com/local/lanow/la-me-ln-homeless-cao-report-20150416-story.html>.

- \$20 million per year in San Francisco simply policing quality of life laws.<sup>29</sup>
- \$30 million per year in Los Angeles in connection with sweeps.<sup>30</sup>
- ❑ Multiple studies conducted throughout the country have shown that, on an individual basis, it is cheaper to house people than enforce these laws.<sup>31</sup>
- ❑ In comparison, studies show annual savings of several thousands of dollars, and as high as \$20,000 by providing housing and support services.<sup>32</sup>
- ❑ Between January 1, 2018 and May 31, 2019 EPD responded to almost 500 complaints regarding prohibited camping alone. While fewer than one-third of these responses led to citations, each call is money spent policing people for being homeless.
- ❑ Given that approximately one quarter of all violations heard in Municipal Court are for quality of life violations, it is reasonable to conclude that over \$1 million of the \$5.1 million dollar Municipal Court budget goes toward the adjudication and related costs for these violations.
- ❑ The annual cost of Eugene's 15 jail beds in Lane County Jail is over 10% of Municipal Court's annual budget.
- ❑ During the 17 month period we evaluated, we estimate that Public Works spent more than \$140,000 cleaning up homeless encampments.
- ❑ EPD is called and issues citations in approximately 50% of the camp clean ups, which adds additional personnel costs for each EPD visit.

### Decriminalization efforts in other jurisdictions

- ❑ Of the cities we researched, 20 have taken measures to decriminalize homelessness by law or by enacting policies that suspend enforcement of certain laws. 15 of these cities are within the 9th Circuit.
  - San Francisco concluded that policing costs were out of control and counterproductive, and in response has redirected a significant portion of its enforcement expenses to services and housing for the homeless.<sup>33</sup>

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<sup>29</sup> Infra, FN 56.

<sup>30</sup> Supra, FN 28

<sup>31</sup> According to a study by the Vero Institute, for example, the average cost of incarcerating one person for a year is \$47,057. HNH 2019, pg 71.

<sup>32</sup> HNH 2019, pg 72; "Ending Chronic Homelessness Saves Taxpayers Money," National Alliance to End Homelessness, [www.endhomelessness.org](http://www.endhomelessness.org).

<sup>33</sup> The San Francisco Police Commission passed a resolution calling on City leadership to develop alternatives to a police response that "identif[ies] funding sources, appropriate dispatch protocol, necessary system changes and appropriate

- ❑ 12 lawsuits have been brought by unhoused individuals against municipalities that resulted either in injunctions against enforcement of sleeping or camping prohibitions, or court-ordered modifications to enforcement protocols.
- ❑ 4 of the 12 lawsuits also resulted in damages awards to the plaintiffs.
- ❑ 9 cities used declarations of homelessness states of emergency to suspend or amend zoning laws and/or reallocate funds in order to increase available shelter options. See Appendix A for a list of jurisdictions that have enacted such declarations.
- ❑ 1 city used its homelessness state of emergency to require that an available low-barrier shelter bed be offered, with transportation to it, before enforcing the camping ban.

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service model . . .,” “Resolution for Effective Response to Homelessness and Complaints Regarding Presence of Homeless People,” January 15, 2020.



### III. RECOMMENDATIONS FOR ORDINANCE AND POLICY CHANGES

Below are proposed ordinance and policy changes that provide an alternative and a more cost-effective approach to Eugene's current criminalization framework. Several recommendations include examples of other cities around the country that have a comparable ordinance or policy in place. All recommendations are of equal importance, whether or not there are noted corresponding ordinances and policies from [other cities](#).

#### Recommendations applicable to all quality of life violations:

1. At an absolute minimum, require that a complaint be made before a citation for a quality of life citation may be issued.
2. When a complaint only involves a quality of life violation and there is no threat to public safety, require an outreach worker to be the first responder rather than EPD.
3. Expand the forms of allowable notice in addition to mail to include text and email so more people will have an opportunity to challenge an alleged violation by being informed of their court hearing.
4. Expand the geographical boundaries of Community Court.
5. Limit the circumstances under which the City Prosecutor can charge homeless people for committing quality of life laws; and dismiss existing cases, including outstanding warrants, where only a quality of life law is involved.
6. Train EPD personnel who respond to complaints about homeless people so they can educate the caller about the low crime rates among people who are unhoused in order to dispel stereotypes.

#### 4.815 Prohibited Camping

Limit hours of enforcement to daytime, such as between 7 AM and 10 PM.

- *Anchorage, Charleston, Houston, San Francisco, San Jose, Seattle, Tucson and Vancouver prohibit camping only during daytime hours.*
2. Limit places where camping is prohibited at all times, such as residential areas, within 15 feet of building entrances and the Downtown Activity Zone.
    - *Berkeley, Boston, Honolulu, Jacksonville, Las Vegas, Reno, and San Luis Obispo prohibit camping only in designated areas.*
  3. Remove "vehicle" from the list of structures to allow car camping at any time of day as long as it is outside of any designated prohibited areas such as residential areas and the DAZ.
    - *49 out of 74 cities that we examined allow some form of vehicle habitation.*
  4. Require that a complaint be lodged before a citation may be issued and that officers must provide an up-to-date list of resources when responding to a complaint.
    - *Eugene Police Policy 410 already requires prior complaints when issuing citations to vehicle campers. Only 18 of 298 prohibited camping citations were issued based on EPD observation as opposed to a complaint.*

5. Require that notice (may be verbal) be given before a citation may be issued, unless there is the threat of a severe health or safety concern.
  - *Atlanta, Boulder, Cincinnati, Columbia (SC), Denver and Jacksonville warn violators, giving them an opportunity to move on before citing them.<sup>34</sup> 24-hour warnings are already required by EPD Policy 410 when habitation in vehicles is involved, unless there is a “prohibited camping” sign, a health threat or other illegal activity at the site.*
6. Require that officers reserve an available shelter bed for the individual before issuing a citation.
  - *Boise, Daytona Beach, Fresno, Glendale, Indianapolis, Richmond, Sacramento, Spokane, Tampa and Wichita, by law, must offer an available shelter bed before issuing a citation.<sup>35</sup>*
7. Amend [4.815](#), “Prohibited Camping,” to exclude from the definition of “campsite” basic bedding such as a blanket or sleeping bag that provide essential protection from the cold and the rain.
8. Amend [4.990\(8\)](#), willful violation of [4.815](#) for car camping, to reduce the penalty from a misdemeanor to a civil infraction and [reduce the amount of the fine](#).

#### 4.807 Criminal Trespass in the Second Degree

1. When the property is not open to the public, require that notice must be posted or a warning given per the request of the property owner before a citation may be issued.
  - *Most trespass laws outside of Oregon have requirements that the violator “knowingly” trespassed. Posted signs meet this knowledge requirement. See, e.g., [Everett, WA](#).*
2. Implement a policy that requires officers to provide a list of up to date resources when responding to a trespass complaint.

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<sup>34</sup> See, e.g., Cincinnati “No person shall be cited under this section unless the person engages in conduct prohibited by this section after being notified by a law enforcement officer that the person is in violation of the prohibition of this section.” [https://library.municode.com/oh/cincinnati/codes/code\\_of\\_ordinances?nodeId=TITVIIGERE\\_CH723STSIUSRE\\_S723-76SILYWIPURI-WPR](https://library.municode.com/oh/cincinnati/codes/code_of_ordinances?nodeId=TITVIIGERE_CH723STSIUSRE_S723-76SILYWIPURI-WPR)

<sup>35</sup> See, e.g., [Sacramento](#), “Persons may only be cited, administratively or criminally, for unlawful camping, pursuant to section 12.52.030, when the citing officer:

- i. Contemporaneously confirms that a shelter bed is available;
- ii. Confirms that there are no limitations to the person’s initial and continued use of the bed;
- iii. Offers to transport the person to the location of the available shelter bed and the person rejects the offer; and
- iv. Finds that there is probable cause for the citation.”

3. Amend police policy 411 so that Trespass Letters of Consent require an annual renewal, consistent with Lane County's policy.<sup>36</sup>

## 4.707 Pedestrians

1. Amend [4.990\(1\)](#) related to [4.707 "Pedestrians,"](#) to reduce the penalty from a misdemeanor to a civil infraction and reduce the amount of the fine.
  - *Cedar Rapids, IA and Madison, WI cite Pedestrian Interference as a mere civil infraction.*
2. Specify daytime hours of enforcement only, between 7 AM and 10 PM.

## 4.190 Consumption or Possession in Unlicensed Public Places Prohibited

1. Amend [4.190](#) to read that possession of "empty" cans or bottles is not evidence of consumption or possession of alcohol.
2. Reduce the penalty for a violation of [4.190](#) from a misdemeanor to a civil infraction and reduce the amount of the fine.

## 4.725 Disorderly Conduct

1. Repeal all of [4.725\(d\)](#) regarding obstruction of traffic on a public way to avoid redundancy in the code, and so that the minor offense of blocking the sidewalk will not lead to "disorderly conduct" on a person's record.
  - *Biloxi, Cincinnati, Detroit, Evanston, Madison, Reno, Roanoke, Savannah, Seattle, St. Louis, and Syracuse do not include obstruction of traffic under disorderly conduct.*
  - *Obstructing streets and sidewalks is already prohibited by EC 5.130 (a civil infraction), obstructing a vehicle by ORS 814.040 (a civil infraction), and obstructing pedestrians by EC 4.707 (currently a misdemeanor).*

## Administrative Order 58-17-07 Parks Rules

1. Reduce the penalty for a [parks rules violation](#) and/or a violation for a restriction of use from a misdemeanor to a civil infraction, consistent with prohibited camping.
  - *Bloomington, Dover, Fayetteville, Madison, and Seattle do not treat [parks rules violations](#) as criminal offenses.*
2. Require verbal notice prior to issuing a citation and allow a reasonable amount of time to move.
3. Discontinue issuance of Criminal Trespass in the Second Degree for [parks rules violations](#) and violations of restriction of use.

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<sup>36</sup>[https://lanecounty.org/government/county\\_departments/sheriff\\_s\\_office/frequently\\_asked\\_questions\\_and\\_answers/trespass\\_letter](https://lanecounty.org/government/county_departments/sheriff_s_office/frequently_asked_questions_and_answers/trespass_letter)

4. Limit imposition of a restriction of use until after a third or subsequent [parks rules violation](#) has been issued, shorten the period of exclusion from park land (currently can be up to a year), and violations must occur within a shorter period of time to be the basis of a restriction of use.
5. For people given a notice that restricts their future use of parks, allow a request for a hearing to be made in person. Written request should not be the only avenue to contest a restriction of use. Allow the person to make the request directly with the City official or EPD officer who is issuing the notice. A time and location for the hearing should be provided at the same time the request is made.
6. Allow a person attending a hearing involving a restriction of use of parks to be accompanied by another person, such as a lawyer, advocate, friend/family or other companion.

## Impoundments of Vehicles

1. Expand the forms of allowable notice in addition to mail to include text and email so more people will be able to act quickly to recover the vehicle and have a genuine opportunity to challenge an alleged violation in court.
2. Amend 5.698 “Hearing to Contest Validity of Impoundment” and Administrative Order No. 56-01-01-F “Amendment of Vehicle Impoundment Notice and Hearing Procedures,” to (i) extend the five day window within which a person must request a hearing in person at Municipal Court; and (ii) provide notice of the procedures to request a hearing *before* the vehicle is impounded consistent with the notice requirement for vehicles that violate E.C. 5.135 – Storage on the Streets.
3. Amend impoundment procedures to require that Homeless Outreach Teams be called when warning notices are issued, so that the agency can offer the individual aid and connection to services.
4. Pursuant to EPD Policy 410, EPD should only respond to a complaint. EPD should not issue a 24 hour notice based on a vehicle an officer observes while on patrol.
5. Amend 5.231, “Prohibited Parking -- Immobilization of Prohibited Vehicles Involved,” so vehicles are not subject to impoundment for \$30 in overdue fines. At a minimum, the threshold amount should be increased.
6. Ensure that accurate information is conveyed as to the location where the vehicle will be held. Accurate information, including the full name of the tow yard with complete address and phone number, must be on the notice as well as shared with the parking department immediately in case the vehicle owner calls the number provided on the notice.

## Encampment Protocols

1. Provide at least 72 hour notice prior to a camp closure.
  - *Puyallup WA. Additional cities have notice periods longer than 24 hours and as long as 2 weeks.*

2. Establish clearer guidelines for handling property and revise the definition of what constitutes property to reduce the incidence of valuable items getting disposed of.
  - *Roseburg, OR, Charleston WV, Portland OR*
3. Outreach workers, rather than EPD or Public Works employees, should be the first responders to an encampment and outreach workers are needed to engage in persistent, ongoing outreach with campers. An alternative option is for a team comprised of outreach workers, along with specially trained EPD officers and/or Public Works employees make the initial contact.
  - *Seattle WA<sup>37</sup>, Charleston SC<sup>38</sup>, Charleston WV.*
4. Outreach workers must assist residents with alternate shelter options and needed services before a camp can be closed.
  - *Seattle WA, Charleston SC, Charleston WV*
5. Transportation to services and shelter must be provided.
  - *Charleston WV*
6. An encampment resident can remain on site until shelter or another solution is made available.
  - *Charelston WV*
7. Establish a grievance process for a camper to challenge the adequacy of alternative shelter provided.
8. Once Public Works has cleaned an encampment deemed a health and safety risk, allow people to move back in.
9. Institute encampment best practices pursuant to the U.S. Interagency Council on Homelessness 2015 guidance document, “Ending Homelessness for People Living in Encampments: Advancing the Dialogue;”<sup>39</sup> and the National Law Center on Homeless & Poverty Encampment Principles and Best Practices.<sup>40</sup>

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<sup>37</sup> USICH Ending Homelessness for People Living in Encampments: Lessons Learned from Seattle, WA

<sup>38</sup> USICH Ending Homelessness for People Living in Encampments: Lessons Learned from Charleston, SC

<sup>39</sup> Supra, FN 16; USICH, “Caution is Needed When Considering Sanctioned Encampments or Safe Zones,” 2018.

<sup>40</sup> Nat’l Ctr on Homelessness & Poverty, Tent City, USA: The Growth of America’s Homeless Encampments And How Communities are Responding 42-43 (2017). [https://nlchp.org/wp-content/uploads/2018/10/Tent\\_City\\_USA\\_2017.pdf](https://nlchp.org/wp-content/uploads/2018/10/Tent_City_USA_2017.pdf)

## IV. SPECIFIC LAWS

This Part IV summarizes the relevant laws that are the subject of this report, highlighting the scope and problems with each.

### 4.815 Prohibited Camping

The ordinance that most blatantly punishes the homeless in Eugene is its prohibited camping ban. The statute prohibits setting up or remaining at a campsite on public property, defining “campsite” as any site intended as a temporary residence. The presence of a blanket or other bedding materials, a heater or a fire is sufficient to meet the statute’s definition of a temporary residence. The violation is a civil infraction, punishable by a fine of \$200.

While the ordinance does not explicitly ban sleeping on public property, in essence it does because if the individual has a blanket or sleeping bag to stay warm, he or she is in violation. Furthermore, the ordinance bans using a structure such as a tent or a vehicle as a temporary residence. The presence of bedding materials inside the structure indicates that it is being used as a temporary residence. Therefore, while a housed person may legally sleep in a car, an unhoused person is not if a blanket or their belongings are in the car with them.

Recently, the Ninth Circuit Court of Appeals ruled in *Martin v. Boise* that prosecuting homeless people for sleeping on public property is a violation of their Eighth Amendment rights.<sup>41</sup> The Supreme Court of the United States affirmed this decision in December 2019 as they denied a petition by the City of Boise to review the Ninth Circuit’s ruling. The Court declared that sleeping is an innocent act, a consequence of being human, and sleeping in public is an innocent act, a consequence of being human and homeless. Therefore, to prosecute sleeping in public, when individuals have no other available options, constitutes cruel and unusual punishment. While Eugene is in the Ninth Circuit and is subject to the ruling, Eugene’s leaders have continued to allow the imposition of fines for sleeping on public property on the grounds that the \$200 penalty is not a criminal sanction. This criminal versus civil distinction, however, is not supported by the *Boise* ruling. The court in Boise focused on the punishment of people due to their unavoidable status as the violation of the Cruel and Unusual Punishments Clause of the Eighth Amendment, not whether the punishment is criminal. Arguably the use of the word “criminal” by the Court is because the ordinances central to this case were misdemeanors. Moreover, there is established case law that clearly states that the Eighth Amendment’s prohibition on punishing an involuntary act or condition does not apply solely to criminal cases.

The futility of issuing a \$200 fine to an indigent, unhoused person is painfully obvious -- the money will never be collected. That futility, added to the inhumaneness of punishing innocent conduct as well as the possible constitutional violation, has led many other cities to either change their laws or cease enforcement of them. For example, many cities now [allow camping at night](#).

Between January 1, 2018 and May 31, 2019, there were 310 citations issued for Prohibited Camping in Eugene, only 14 of which were not prosecuted. During this time period only two arrests were made for Prohibited Camping, including one arrest made after the *Boise* decision. Our data

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<sup>41</sup> *Martin v. City of Boise*, 920 F.3d (2019).

suggests that prohibited camping citations are only issued to unhoused people. Indeed, by its nature, the prohibited camping ordinance targets the homeless, since housed people have no need to sleep on public property. As discussed in the Executive Summary, every temporary shelter option in Eugene is full and has a wait list, and there are over 1,000 people at any given time who are without any form of shelter. Therefore, the unhoused have nowhere else to go except public property, so the ordinance creates a nightly hide-and-seek existence for unhoused individuals, yet solves nothing.

One middle-aged unhoused woman shared that since late December she has gone to the Mission every single day in hopes of getting into their shelter services for women. She remains on the wait-list and in the meantime, to try to stay safe and to avoid getting citations, which she knows will make it more difficult for her to get back into housing, she tries her best to locate her tent in tucked away places and moves frequently. Another woman spoke about how she has received several tickets and is so fearful of getting another one that she is always on the move. As a result, she is unable to find any kind of employment.

#### 4.807 Criminal Trespass in the Second Degree

Another ordinance that disproportionately impacts the unhoused is Criminal Trespass in the Second Degree (CTII). In the same way the Prohibited Camping ordinance bans sleeping on public property, CTII prohibits sleeping or remaining on private property. The ordinance criminalizes unlawfully entering or remaining on premises or in a motor vehicle. The crime is a misdemeanor, punishable by a fine of \$500, up to 30 days in jail, or both.<sup>42</sup>

CTII authorizes officers to remove people from private property. The statute does not require a warning from an officer or from the owner when the property is not open to the public. It also does not require that the individual be engaged in any other disturbance or criminal activity; it is simply a person's presence that is criminalized. Therefore, being in an empty parking lot, causing no damage and bothering no one, is a crime. The ordinance disproportionately impacts the homeless since they are the population with no place of their own to sleep or to exist. Between January 1, 2018 and May 31, 2019, 2,518 citations for CTII were issued in Eugene, only 320 of which were not prosecuted. Our data analysis suggests that over [80% of CTII violations are by unhoused individuals, and arrests are made in about 30% of cases.](#)

The CTII ordinance itself does not require a complaint before an arrest is made or a citation is issued. Officers can cite or arrest someone based solely on observation and even if an owner has no problem with the individual's presence on the property. However, according to Eugene Police Policy 411, Eugene Police are not supposed to enforce the ordinance without a prior complaint and the owner's pledge to prosecute and testify against the violator. An actual complaint is not necessary, simply having a Trespass Letter of Consent on file with EPD is sufficient for police to take action.<sup>43</sup> By filing a letter with police, owners also must consent to prosecute all trespassers. It is

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<sup>42</sup> The City Prosecutor has the discretion to reduce CTII to an ordinance violation with a lesser penalty.

<sup>43</sup> <https://www.eugene-or.gov/ArchiveCenter/ViewFile/Item/4336>. Trespass Letters of Consent are statements by owners authorizing police to remove people from their property anytime they are found trespassing, without a specific complaint by the owner.



likely that some property owners who sign letters of consent do not understand that this gives police the unilateral power to cite and move people without the owner's approval and that they may be compelled to cooperate with police anytime the district attorney pursues a prosecution. The Eugene Trespass Letters of Consent remain active indefinitely as there is no renewal requirement.

Recently, the City of Eugene passed an ordinance giving property owners control over planter strips adjacent to their property.<sup>44</sup> Prior to the passage of this new ordinance, the section of land between the sidewalks and the streets was owned and controlled by the City. Now, this section of the ground is considered private property for purposes of CTII. Therefore, if someone is found sleeping on a grassy area in between the street and sidewalk, he or she will no longer receive a mere citation for the civil infraction of prohibited camping, but may be arrested for the misdemeanor of CTII.

### Park Rules (Administrative Order 57-17-07-F)

*Prohibited Activities:* There are multiple prohibited activities in Eugene parks that disproportionately impact the unhoused, including (i) the use of any temporary structure or enclosure, including sleeping bags, tents, or canopies without permission from the City; (ii) presence in parks between 11 pm and 6 am unless authorized by the City Manager; (iii) unauthorized vehicles after closure (subject to citation and towing); (iv) smoking (banned everywhere within park boundaries); and (v) engaging in an activity that is "disruptive or incompatible with the appropriate use . . . or which interferes with the reasonable use and enjoyment . . . by others," and this includes "picnic tables or picnic shelters for reasons other than their intended use." Obviously this last prohibition is incredibly broad and could be used against people even sitting at a picnic table or sitting under a shelter during the rain, especially if they appear to be unhoused. These prohibitions together can be used to essentially exclude unhoused people from the thousands of acres of park space that Eugene has to offer.

*Violations of park rules process:* Violation of park rules is not a complaint based process, rather, the violation just needs to be observed by authorized City personnel or EPD. City personnel have the authority to issue a Notice of Violation of Park and Open Space Rules (Notice of Violation) upon the first encounter with a person, there is no requirement to issue a verbal or written warning first. In the event the unhoused person is given a verbal request to leave the premises and fails to comply, or if the person already has another Notice of Violation, City personnel have the authority to arrest the person for CTII and contact EPD. Moreover, if someone already has a Notice of Violation, City personnel can issue a Notice of Restriction of Use (Restriction of Use), which excludes a person from all park space for at least one month and up to one year. It just takes a second Notice of Violation, regardless of severity. If a police officer observes a person allegedly violating a park rule, the officer can arrest the person without any warning or he/she can issue a citation for CTII, even if it is the person's first violation of a park rule.

*Punishment:* The punishment for violating a park rule includes a fine up to \$500 and/or 30 days in jail. Between January 1, 2018 and May 31, 2019, there were 1,150 citations for Notice of Violation in Eugene, 48 involved arrests and 747 of which were prosecuted. Our data analysis suggests that

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<sup>44</sup> Ordinance No. 20618, amending E.C. 7.370, "Sidewalks – Owners to Fill Ground Between Curb and Sidewalk," June 25, 2019.



over [88% of all Notice of Violations are issued to unhoused individuals \(657\)](#). In addition, among the vast majority of Notice of Violation citations that were prosecuted, any instance where a person failed to appear for their scheduled hearing would mean the person would be guilty of a misdemeanor by default and there could be a warrant for the person's arrest. This is particularly problematic since the initial violation notice simply states that a complaint may be filed in Municipal Court, whether the person receives the actual citation with the exact date and time of his/her court hearing is unpredictable. EPD is responsible for serving the defendant, which is virtually impossible when someone is moving from place to place to be safe and avoid citations unless it is given to the person at the time the violation occurs.

*Restriction of Use:* For individuals given a Restriction of Use, the hearing and appeal process lacks procedural due process, making it so onerous it is practically impossible for someone to challenge. First, in order to have a hearing to challenge a Restriction of Use, the person must make a request in writing within 48 hours of receiving the Notice of Restriction of Use at a location specified on the notice. Second, at the hearing the Director can exclude anyone from the hearing unless such other person is presenting testimony. This means the person cannot have a friend or advocate accompany them for support and arguably means an attorney could be excluded. Making a person appear alone can be very intimidating and becomes yet another barrier to seeking a hearing in the first place. Finally, the exclusion takes effect immediately and is not stayed pending a person's appeal. Therefore, even if a person's exclusion is found to be invalid, they have been deprived of their right to use any park space throughout Eugene while the appeal was pending.

Following the hearing, the Director's decision must be delivered or mailed to the person. This presents yet another obvious barrier for people who are unhoused. Many are difficult to find and mailing is futile. We were unable to obtain records that would reveal how often people request an informal hearing, and how often people challenge the Director's decision and appear in Municipal Court. Based on anecdotal information shared by people who are unhoused and by homeless advocates, it is exceedingly rare for someone to request a hearing and no one had heard of someone challenging the Director's decision in Municipal Court. When the stakes for violating a park rule are so high -- an unaffordable fine of \$500, possible jail time and banishment from all park land for as long as one year, the hearing and appeal process must be more accessible for the unhoused.

*Modification of the rules:* Fortunately, there is hope that these rules can be modified to better protect the well-being of the unhoused and reduce the costs incurred by the City. Under this administrative order the City Manager has the authority to amend any rule and the Executive Director of the Public Works Department has the authority to adopt rules regulating Parks and to temporarily waive any rule.

Without their own space to exist, and with no available shelter space, the unhoused must either exist on public property or private property. Existence itself, for the unhoused, means violating park rules, the CTII ordinance or the prohibited camping ordinance. These three ordinances, working together, essentially punish the homeless for existing anywhere in Eugene.

#### 4.190 Consumption or Possession in Unlicensed Public Places Prohibited

Another ordinance that disproportionately impacts the unhoused is known as "Open Container." The statute criminalizes both the mere possession of an open alcoholic beverage container in a

public place and also the consumption of an alcoholic beverage in a public place. The crime is a misdemeanor, punishable by a fine of \$500, up to 100 days in jail, or both.<sup>45</sup>

The ordinance unfairly targets those who do not have a home in which to socialize and drink. Furthermore, anyone who is collecting or transporting empty cans or bottles in order to redeem their deposits is in violation of the statute. Between January 1, 2018 and May 31, 2019, there were 589 citations for Open Container in Eugene, only 65 of which were not prosecuted. Our data suggests that over 80% of Open Container violations are by unhoused people, and arrests are made in about 13% of cases. The statute punishes the unhoused for behavior that housed people do every day merely because they do not have four walls to hide behind.

#### 4.725(d) Disorderly Conduct—Obstruction

EC 4.725(d) criminalizes the obstruction of pedestrian or vehicular traffic on a public way either with the intent of causing public annoyance or inconvenience, or recklessly creating the risk of public annoyance or inconvenience. The crime is a misdemeanor, punishable by a fine of \$1,000, up to 100 days in jail, or both.

The ordinance unfairly targets the homeless because they are the population with the greatest need to rest on public sidewalks, since they have no other place to go to rest or put down their belongings. Obstructing streets and sidewalks is already prohibited by EC 5.130 – Obstructing Streets, which is a civil infraction, and obstructing a vehicle is prohibited by ORS 814.040, also a civil infraction. Given such significant legal consequences, it is excessive to issue a disorderly conduct citation to an individual for sitting on a sidewalk simply because the act has the potential to annoy or inconvenience someone else. While this is not one of the quality of life violations that is the focus of this report, it is included because of the severity of the punishment. It arguably constitutes cruel and unusual punishment in violation of the Eighth Amendment, both because of the criminal component and because the fine is “grossly disproportionate to the gravity of the offense,”<sup>46</sup> particularly here where the offense pertains to one’s status rather than conduct.

#### 4.707 Pedestrians

EC 4.707 criminalizes blocking or interfering with the free flow of pedestrian traffic on sidewalks, as well as blocking pedestrian and vehicular entrances to public or private property, by standing or by placing items in the way. The crime is a misdemeanor, punishable by a fine of \$1,000, up to 100 days in jail, or both.

Just like EC 4.725(d), the ordinance unfairly targets the homeless because they are the population with the greatest need to rest on public sidewalks. The penalties for the violation are shockingly excessive for such innocent conduct and, as such, arguably violate the Eighth Amendment. Furthermore, as discussed in the preceding section, obstruction of streets and sidewalks is already prohibited by EC 5.130, which is a civil infraction.

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<sup>45</sup> The City Prosecutor has the discretion to reduce Open Container to an ordinance violation with a lesser penalty.

<sup>46</sup> *United States v. Bajakajian*, 524 U.S. 321 (1998) at 324.

## Vehicle Impoundments

There are two principal ways a vehicle that is being used for shelter typically is impounded: (1) willful violation of the prohibited camping ordinance, “EC 4.990(8) Penalties – Willful Violation of Prohibited Camping,” or (2) EC 5.135 Storage of Vehicles on Streets.”

### **4.990(8) Penalties—Willful Violation of Prohibited Camping**

Under EC 4.815, “Prohibited Camping,” when the violation involves camping in a vehicle, and consists of a second or subsequent offense within 30 days, it is a “willful violation.” The crime is a misdemeanor, punishable by a fine of \$500, up to 10 days in jail, or both, as well as the impoundment of the vehicle. Although Eugene offers a car camping program, as explained in the Executive Summary, there are twice as many people on the waitlist as there are spots and it takes months to move off the waitlist to a legal space. Many unhoused people have lost their homes, but have not lost their vehicles or all their belongings. Without an available, legal place to park, they are at risk of losing everything every night under this ordinance.

According to EPD’s Policy 410, EPD only deals with a vehicle camping if a complaint is made and a warning notice is issued. SVdP, as the City’s contract facilitator, receives a daily list of complaints from EPD and is responsible for issuing the initial 24 hour warning notice. If the vehicle is not moved within 24 hours, the person becomes a willful violator and is subject to impoundment as well as arrest. Or, if the vehicle is found to be in violation again within 30 days of a warning notice, the camper becomes a willful violator and is subject to immediate impound with no 24-hour notice. In addition, the car can be impounded without notice and the person can be arrested if a prohibited camping sign exists, whether or not it is easily visible and readable.

Under Policy 410, if a car is impounded, the officer must give a copy of the impound report to the person if they are present, otherwise, the report with pertinent information about the location of the vehicle and how to contest the validity of the impoundment is mailed to the registered owner of the vehicle. There are several problematic aspects to this process, particularly for people whose only shelter option is their vehicle. The accumulation of fees, which include a daily fee of almost \$100 charged by the tow yard, makes recovery of the vehicle impossible for many people after just a few days. Even when someone can come up with enough money, in many instances, the person who owns the vehicle is not the registered owner. Often the seller does not transfer title to the buyer due to the cost and so there is no way for the new owner to receive timely information about the impoundment. Failure to demonstrate proof of ownership also means that the alleged violator is barred from accessing the vehicle at the tow yard.

We have heard many stories of people losing their only identification and proof of purchase because they cannot access their vehicle at the tow yard. People’s medications, life’s most important documents and cherished possessions are also lost when the tow yard will not allow people to access their vehicles. One single mother was prohibited from accessing her family’s needed belongings by the tow yard because she could not afford to pay the fine and accrued tow yard fees. It was only with the financial assistance of a local nonprofit that she was able to recover her vehicle, the only shelter she could provide her two daughters.

Moreover, based on anecdotal information shared with us, people often are not at their vehicle when it is towed and since the notice to contest the validity of the impoundment is only mailed after the vehicle is impounded, people have no way of easily finding out what happened to their vehicle

and often have no idea that they can request a hearing in Municipal Court. There is a short window of time in which someone must appear in Municipal Court to request a hearing, which can be difficult for a person who just lost their only shelter, mode of transportation and all their belongings. Their immediate priority is to secure new shelter and essential items.

One woman whose vehicle was towed for living inside of it was given incorrect information from the parking department, and it took multiple calls over two days to obtain accurate information, including the correct name of the tow yard. By the time she figured out where her vehicle was located it was too late in the day to pay the fine required before being able to recover the vehicle. The situation was worsened by the fact that it was a Friday so two more days elapsed before she could recover her vehicle. Given the \$90 daily storage fee charged by the tow yard, by Monday morning she could no longer afford to pay the accumulated fines. The failure to communicate correct information in a timely way can have devastating consequences for people in this situation.

### 5.135 – Storage of Vehicles on Streets

People living in their vehicles also are cited under another section of the Eugene Code – “5.135: Storage of Vehicles on Streets.” While we were unable to obtain the number of vehicles belonging to unhoused people that were impounded pursuant to this section of the Code, we have heard from several people directly who have been cited and vehicles impounded under this code provision. Based on the stories we have heard, people have not received a notice of the right to a hearing to contest the validity of the impoundment before the vehicle is impounded, which is required under state law as well as Eugene’s code.

## Encampment Cleanups and Closures

When a homeless individual’s tent or other form of temporary shelter is found in Eugene City Parks and Open Spaces or on other public property, a work order is created by Public Works that lists the actions taken, including issuance of a 24-hour notice, storage of any items, and the cleanup itself. Between January 1, 2018 and May 31, 2019, there were 2,135 work orders created for homeless camps.<sup>47</sup> Each individual tent or shelter is treated as its own campsite, with separate notices issued and separate work orders created for each structure. In other words, when a campsite has more than one tent, a separate 24-hour notice is issued for each tent. Based on our examination of a random sample of 100 of the 2,135 work orders created, we learned the following:

- ☐ Only three sites had multiple tents or structures grouped together.<sup>48</sup>
- ☐ Ninety-nine out of the sample 100 work orders involved camp sites found in obscure or hidden areas of parks or open spaces—nowhere near foot traffic, residential areas, schools or playgrounds.

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<sup>47</sup> 2,135 digital copies of work orders for homeless camp cleanups/notices received from Eugene City Public Works Department, August 9, 2019.

<sup>48</sup> This appears to contradict actual practice as we have heard from numerous sources that it is common among those who are unhoused to camp together in small groups.

- ☐ Only three work orders were complaint-driven, the rest were issued based on observation by a Public Works employee.
- ☐ Only four work orders from the sample showed that belongings left behind had been saved and stored after cleanup.<sup>49</sup>
- ☐ Almost all of the work orders noted a cleanup consisting of trash disposal only.
- ☐ 1,131 citations for Notice of Violations were issued during this time period, 728 of which the Eugene City Prosecutor charged as a crime and prosecuted.<sup>50</sup> Since Parks and Public Works employees do not issue citations,<sup>51</sup> the data suggests that in about half of all cleanups a person is not only forced to leave their camp site, they also are issued a parks violation citation by EPD.

Contrary to the story that these work orders convey, we have heard from numerous people, both unhoused individuals and advocates who work closely with the unhoused, that in practice campers often only are given a few hours following a 24 hour notice or no notice at all to relocate. We also have heard that people's essential belongings, including tents, tarps and sleeping bags, frequently are discarded rather than stored as required pursuant to stated policy. This suggests that at least some of the work orders that note trash disposal only are discarding people's valuable belongings. We learned of a group of people who were forced to move without any notice and when they returned to collect their belongings many items were gone and the remaining ones were mangled beyond use.

One woman talked about the many citations she received and how often she was forced to move due to camp closures/cleanups. As a result, she stayed in an abusive relationship because she was scared and did not know where to go on her own without being forced to leave.

In addition to the severe consequences to the individuals whose lives have been disrupted from being forced to move, the costs to the city, and therefore tax payers, is not insignificant. Between January 1, 2018 and May 31, 2019, Public Works employees spent an estimated 2,508 man hours at an estimated \$141,187 to clean up homeless people's campsites and issue 24-hour warnings of cleanups.<sup>52</sup> As noted above, given the number of citations for parks violations issued, and the number charged as a crime and prosecuted, the real costs are significantly higher. For instance,

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<sup>49</sup> Two of these four also involved the campers' arrests.

<sup>50</sup> Email from Eugene City Prosecutor, August 8, 2019.

<sup>51</sup> Telephone conversation with a Parks Ambassador, July 1, 2019.

<sup>52</sup> The average number of man hours for a work order for a cleanup (1.175) was determined by averaging the man hours from a random sample of 100 work orders out of the total 2,135 work orders received from the City for the time period. The cost per man hour was calculated by finding the average Public Works employee salary based on the department's FTEs and total 2019 personnel budget <https://www.eugene-or.gov/DocumentCenter/View/42491/FY19-Adopted-Budget?bidId=>

there are the EPD man hours involved in responding to camp sites to issue citations.<sup>53</sup> There also are Municipal Court costs for all the citations that were prosecuted in Municipal Court (Approximately one third of work orders involved a citation and prosecution in Municipal Court.).

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<sup>53</sup> Telephone conversation with a Parks Ambassador, July 1, 2019.

## V. COSTS OF CRIMINALIZATION

The ineffectiveness of criminalization could be easy to overlook if not for its staggering costs; fruitlessly criminalizing homelessness is a tragic waste of money. The millions of dollars that currently fund enforcement in Eugene could be redistributed to less expensive housing and shelters that legitimately and effectively solve Eugene's homelessness. Furthermore, decriminalizing Eugene's laws that target people who are homeless for their status protects the City against costly lawsuits involving the infringement of the rights of the unhoused.

### Cost of Enforcement

Not enforcing a quality of life law against people because of their unhoused status is plainly less costly than enforcing one. There are administrative costs just to process these citations through the various points in the system; costs to run municipal court, which has an overwhelming number of defendants in part due to the number of unhoused cycling through the system; costs to EPD; and costs to our jail system, to name a few. A study by Seattle University estimated that the City of Seattle spends \$2.3 million over five years enforcing only one of its six quality-of-life laws.<sup>54</sup> Another study by University of Denver's Sturm College of Law reported that Denver spent \$742,790 enforcing only 5 quality-of-life laws in 2014.<sup>55</sup> A study on homelessness in Los Angeles reported that the City spends over \$50 million a year just on policing homelessness, which does not include adjudication and incarceration,<sup>56</sup> and \$30 million each year on sweeps.<sup>57</sup> In 2015, San Francisco spent \$20.6 million just on policing the homeless.<sup>58</sup> The City has since abandoned the effort, opting instead to reinvest the money in true solutions to homelessness, such as housing.<sup>59</sup> Now, San

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<sup>54</sup> Howard, Joshua and David Tran, *At What Cost: The Minimum Cost of Criminalizing Homelessness in Seattle and Spokane* (2015). As of August 19, 2019: <https://digitalcommons.law.seattleu.edu/cgi/viewcontent.cgi?referer=https://www.google.com/&httpsredir=1&article=1000&context=hrap>. The Seattle data is based on an analysis of the Pedestrian Interference ordinance. It also estimated that Spokane spends \$1.3 million over five years enforcing six of its eight quality-of-life laws. This study defined quality of life laws as those that "discriminatorily target, are selectively enforced against, or disproportionately affect people experiencing homelessness."

<sup>55</sup> Adcock, Rachel A., et al., *Too High A Price: What Criminalizing Homelessness Costs Colorado*. As of August 20, 2019: <https://www.law.du.edu/documents/homeless-advocacy-policy-project/2-16-16-Final-Report.pdf>

<sup>56</sup> Santana, Miguel A., *Homelessness and the City of Los Angeles* (2015). As of August 20, 2019: <https://www.documentcloud.org/documents/1906452-losangeleshomelessnessreport.html>

<sup>57</sup> Supra, FN 28

<sup>58</sup> Campbell, Severin, Latoya McDonald and Julian Metcalf, *Homelessness and the Cost of Quality-of-Life laws* (2016). As of August 20, 2019: <http://2zwmzkbocl625qdrf2qqqfok-wpengine.netdna-ssl.com/wp-content/uploads/2016/06/Budget-and-Legislative-Analyst-Report-Quality-of-Life-Infactions-and-Homelessness.052616-1.pdf>. Study covers violations for 35 ordinances.

<sup>59</sup> Johnston, TJ, *The Cost of Criminalizing Homelessness* (2016). As of August 20, 2019: <https://www.streetsheet.org/?p=2091>



Francisco Police only respond to complaints of homeless people sleeping or camping when there is a life-threatening emergency or a crime in progress.<sup>60</sup>

At \$33.2 million, the cost of Eugene Police Patrol is the third largest portion of Eugene's 2019 budget.<sup>61</sup> Between January 1, 2018 and May 31, 2019, Eugene Police responded to 474 complaints involving prohibited camping alone, which does not include all of the other quality-of-life laws that are the basis of so many complaints against the unhoused, such as criminal trespass II.<sup>62</sup> Thanks to EPD's generous and diplomatic policing, fewer than one-third of those responses led to citations.<sup>63</sup> Regardless, each of those 474 calls to service is money spent policing homelessness.

Approximately one quarter of violations on the Eugene Municipal Court docket are for quality-of-life citations, the vast majority of which go to the unhoused.<sup>64</sup> Municipal Court's budget this year is \$5.1 million, which translates to an approximate \$1.27 million for quality-of-life citations.<sup>65</sup> Part of the total Municipal Court budget is the cost of Eugene's 15 jail beds in Lane County Jail, at \$644,000 a year.<sup>66</sup> Reducing these costs by modifying laws and policies that unnecessarily punish people for being unhoused would result in a significant cost savings for Eugene and its taxpayers.

A recent analysis of participants in the Frequent User System Engagement (FUSE) Program indicates a 75% decrease in Eugene Municipal Court citations among people in the FUSE program, along with an 82% decrease of arrests and 50% reduction in jail time. Programs such as FUSE and others elsewhere in the country demonstrate a cost savings when people have access to the services needed to overcome barriers and transition to a more stable situation.

## Cost of Housing

A multitude of studies have proven that providing individuals with permanent supportive housing is cheaper to a municipality than allowing the person to remain on the streets, cycling through shelters, jails and emergency rooms.<sup>67</sup> Based on studies that have broken out the specific costs to

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<sup>60</sup> <https://www.sanfranciscopolice.org/get-service/homelessness>

<sup>61</sup> <https://www.eugene-or.gov/1619/Budget-Facts-at-a-Glance>

<sup>62</sup> Report from Eugene Police Department: Calls to Service for E.C. 4.815 Prohibited Camping, January 1, 2018 – May 31, 2019.

<sup>63</sup> Calls to Service report from EPD compared against Eugene Municipal Court list of citations for E.C. 4.815 Prohibited Camping, January 1, 2018 – May 31, 2019.

<sup>64</sup> Analysis of the Eugene Municipal Court docket the week of July 12 – 16, 2019 revealed that 28% were quality-of-life citations.

<sup>65</sup> <https://www.eugene-or.gov/1619/Budget-Facts-at-a-Glance>

<sup>66</sup> Stone, Cheryl, *Grant Notification: 2016 Community Court Program* (2016). As of August 20, 2019: <https://www.eugene-or.gov/ArchiveCenter/ViewFile/Item/4694>

<sup>67</sup> Hunter, Sarah B., Melody Harvey, Brian Briscoombe, and Matthew Cefalu, *Evaluation of Housing for Health Permanent Supportive Housing Program, Santa Monica, Calif.*: RAND Corporation, RR-1694-BRC, 2017. As of August 19, 2019: [https://www.rand.org/pubs/research\\_reports/RR1694.html](https://www.rand.org/pubs/research_reports/RR1694.html) (17 different studies comparing the costs of homelessness against the costs of providing permanent supportive housing are evaluated and summarized).



cities of enforcing quality-of-life laws, the cost of criminalizing homelessness alone, from policing to adjudicating to incarcerating—excluding the costs of healthcare and other services—is still more expensive than providing permanent supportive housing. For example, a study in Osceola County, Florida reported that the total cost of all of the bookings and jail stays for their 37-person cohort of unhoused frequent offenders in 2013 was \$641,791, or an average of \$17,345 per person.<sup>68</sup> Providing a year of permanent supportive housing in Central Florida, on the other hand, costs an average of \$10,051 per year per individual.<sup>69</sup> This means a potential savings of \$7,000 through housing instead of criminalizing.

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<sup>68</sup> Shinn, Gregory A., *The Cost of Long-Term Homelessness in Central Florida: The Current Crisis and the Economic Impact of Providing Sustainable Housing Solutions* (2014). As of August 19, 2019: <https://shnny.org/uploads/Florida-Homelessness-Report-2014.pdf>. The 37-person cohort was made up of the unhoused people who were the county's most frequent offenders of quality-of-life laws.

<sup>69</sup> *Id.*

## VI. DECRIMINALIZATION: PRACTICES IN OTHER CITIES

Based on our research, over the last four years fourteen cities have changed their laws to better accommodate homeless rights. These cities have decriminalized homelessness by reducing penalties and eliminating jail sentences, opening up areas to overnight sleeping, allowing car camping in certain locations, lengthening warning notices before sweeps, and reforming protocols for storing people's belongings.<sup>70</sup> Furthermore, since the *Boise* decision in 2018, an additional seven cities have changed their police policies, discontinuing enforcement of their sleeping bans. Almost all of the cities that have decriminalized their laws in recent years initiated changes proactively rather than waiting to act in response to a costly lawsuit.<sup>71</sup>

### Examples of Recent Code Changes

CITY	DATE	ACTION	ACHIEVEMENT	SOURCE
Austin	2018 June	Passed Resolution	Requires city manager to officially review ordinances that criminalize homelessness.	<a href="#">View Resolution</a>
Austin	2019 June	Amended Laws	Allows camping in public areas, as well as sitting and lying down in the downtown area, unless it causes a threat or renders the area impassable. Allows panhandling.	<a href="#">View Ordinance</a>

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<sup>70</sup> *Id.*

<sup>71</sup> The following cities were recognized by the National Law Center on Homelessness and Poverty in their Housing Not Handcuffs 2019 report as either suspending enforcement, repealing or amending ordinances, or modifying approaches in response to *Martin v. Boise*: Aberdeen, WA, Austin, TX, Berkeley, CA, Buena Park, CA, Costa Mesa, CA, Crescent City/Del Norte County, CA, Englewood, CO, Eureka, CA, Grand Junction, CO, Harrisonburg, VA, Honolulu, HI, Lacey, WA, Los Angeles, CA, Marysville/Yuba County, CA, Minneapolis, MN, Modesto, CA, Moses Lake, WA, Nevada County, NV, Oakland, CA, Orange County, CA, Olympia, WA, Portland, OR, Redding, CA, Roseburg, OR, Sacramento, CA, San Clemente, CA, San Francisco, CA, Santa Ana, CA, Santa Cruz, CA, Sutter County, CA, Tacoma, WA, Thousand Oaks, CA, Turlock, CA, Ukiah, CA, and Visalia, CA. Bauman, Tristia, et al., *Housing not Handcuffs: Ending the Criminalization of Homelessness in U.S. Cities* (2019).

CITY	DATE	ACTION	ACHIEVEMENT	SOURCE
Charleston, WV	2017 Jan	City Council Policy	Encampment ordinance enacted provides longer notice, establishes closure procedures and process for cataloguing personal items, requires involvement of outreach workers and transportation to shelter, and allows people to remain on site if no alternative shelter is available.	<a href="#">View Ordinance</a>
Denver	2017 May	Amended Law	Recognizing that quality of life violations disproportionately impacts vulnerable populations, reduces penalties to no fines and a maximum of 60 days of jail time.	<a href="#">View Ordinance</a>
Florence	2018 Sep	Amended Law	Allows camping on public property, but not private.	<a href="#">View Ordinance</a>
Fresno	2018 Oct	Amended Law	Prevents enforcement of the sleeping ban unless a no-barrier shelter bed has been confirmed available and been offered.	<a href="#">View Ordinance</a>
Glendale	2018 Oct	Amended Law	Prevents criminal sanctions being imposed against people sleeping outdoors on public property when no alternative shelter is available to them.	<a href="#">View Ordinance</a>
Indianapolis	2016 Feb	Amended Law	Requires the city to provide adequate housing alternatives before evicting someone from a camp. Requires a 15-day eviction notice. Requires storage of belongings for 60 days.	<a href="#">View Ordinance</a>
Los Angeles	2015 July	Amended Law	Allows tents on sidewalks in designated places between 9 p.m. and 6 a.m.	<a href="#">View Ordinance</a>

CITY	DATE	ACTION	ACHIEVEMENT	SOURCE
Los Angeles	2016 Apr	Amended Law	Extends notice of impounding of stored personal property from 24 to 72 hours. Limits areas where storage of personal property is prohibited.	<a href="#">View Ordinance</a>
Los Angeles	2017 Jan	Amended Law	Allows car camping in non-residential areas more than 500 feet from a school or daycare.	<a href="#">View Ordinance</a>
Louisville	2018 Feb	Amended Law	Allows camping for a 21-day period. Requires 21-day notice before displacement from camp.	<a href="#">View Ordinance</a>
Portland, OR	2018 Feb	Amended Law	Changes warning time before sweeps to anywhere from 48 hours up to 10 days instead of anywhere from 24 hours up to 7 days.	<a href="#">View Ordinance</a> <a href="#">View Ordinance</a>
Roseburg	2018 Oct	Amended Law	Reduces criminal sanctions for prohibited camping from a misdemeanor to civil violations and lowered fine to \$250.	<a href="#">View Ordinance</a>
San Diego	2019 Feb	Repealed Law	Removes ban on vehicle habitation. The law was reinstated in May with designated areas for vehicle habitation permitted.	<a href="#">View Ordinance</a>
Seattle	2017 Apr	Amended Law	Requires 72-hour notice before removal of encampment.	<a href="#">View Rules</a>
Spokane	2018 Nov	Suspended Ban	City voted to suspend sit/lie ban until 200 shelter beds were added.	<a href="#">View Ordinance</a>
Vancouver, WA	2015 Sept	Amended Law	Allows camping in public places between the hours of 9:30 p.m. and 6:30 a.m.	<a href="#">View Ordinance</a>

### Cities that have Suspended Enforcement

CITY	SOURCE
Colorado Springs, Colorado	<a href="#">View Story</a>
Dallas, Texas (Criminal Trespass only)	<a href="#">View Letter From Prosecutor</a>
Eureka, California	<a href="#">View Police Policy</a>
Moses Lake, Washington	<a href="#">View Police Facebook Post</a>
Portland, Oregon	<a href="#">View Police Policy</a>
Sacramento, California	<a href="#">View Police Policy</a>
San Francisco, California	<a href="#">View Police Policy</a>

## VII. 4TH & 8TH AMENDMENT LAWSUITS BY THE HOMELESS

The number of successful 4th and 8th Amendment lawsuits brought by homeless individuals against cities and counties has been growing rapidly since 2017. Courts are increasingly willing to admit the unconstitutionality of punishing innocent, involuntary conduct such as sleeping, and are increasingly willing to uphold rights against the illegal seizure of property. Thus, nine cases have resulted in injunctions against cities from enforcing unconstitutional camping or sleeping prohibitions, and three other cases have required changes to cities' camp cleanup protocols. Furthermore, four cases resulted in cash payments for damages from the city or county to the plaintiffs whose rights were infringed. Below is a chart of each case, along with a brief summary of the outcome.

DEFENDANT	DATE	CASE NAME	OUTCOME	SOURCE
Los Angeles	2007 Oct	<i>Jones v. City of Los Angeles</i>	Prohibits enforcement of the sleeping ban between 9 p.m. and 6 a.m. anywhere in the city until 1250 shelter beds are added. Although the condition was met in 2018, the city is still not enforcing the ban.	<a href="#">View Story</a>
Portland	2012 Feb	<i>Anderson v. City of Portland</i>	Settlement monies went to City's homeless program for rent assistance. Advance notice to all campers prior to issuing a citation and removing property, improved notice and storage requirements in connection with encampment cleanups.	<a href="#">View Settlement</a>
Los Angeles	2014 June	<i>Desertrain v. City of Los Angeles</i>	Enjoins the City from enforcing its vehicle camping prohibition, declaring it unconstitutional.	<a href="#">View Decision</a>
Charleston, West Virginia	2016 July	<i>Curtright v Jones</i>	\$20,000 fund for individuals who lost belongings when camp was dismantled; at least \$1200 per person in the form of vouchers; establishment of storage facility; funding to a nonprofit to hire additional outreach workers.	<a href="#">View settlement</a>
Seattle	2017 May	<i>Hooper v. City of Seattle</i>	Active class action suit against Seattle for seizing and destroying belongings without notice.	<a href="#">View Complaint</a>
Houston	2017 Aug	<i>Kohr v. City of Houston</i>	Grants temporary restraining order enjoining the enforcement of the sleeping or camping ban against unhoused individuals.	<a href="#">View Court Order</a>

DEFENDANT	DATE	CASE NAME	OUTCOME	SOURCE
Seattle	Mar 2018	<i>Long v. City of Seattle</i>	Court found for plaintiff that fines associated with impoundment of vehicle were excessive and attachment of vehicle violated Washington's Homestead Act.	<a href="#">View Decision</a>
Boise	2018 Sept	<i>Martin v. City of Boise</i>	Prohibits the imposition of penalties for sitting, sleeping, or lying outside on public property for homeless people who could not obtain shelter.	<a href="#">View Decision</a>
Portland	2018 Sept	<i>O'Callaghan v. City of Portland</i>	Active suit against Portland for enforcing its sleeping ban. On appeal, the court agreed with the Plaintiff's 8th amendment argument and reversed the district court's decision.	<a href="#">View Decision</a>
San Diego	2018 Aug	<i>Bloom v. City of San Diego</i>	Enjoins enforcement of the vehicle habitation ordinance, including issuing citations, impounding vehicles, and proceeding with prosecution of any outstanding citations. The city repealed the vehicle habitation ban in February, 2019, but reinstated it with designated parking areas for human habitation in May.	<a href="#">View Court Order</a>
Laguna Beach	2018 Nov	<i>Glover v. City of Laguna Beach</i>	Requires City to pass resolution to end homelessness, hire a full-time ADA coordinator, provide special accommodations at shelters to individuals with disabilities, and update police policy with regard to interactions with the homeless.	<a href="#">View Settlement</a>
Puyallup WA	2019 Jan	<i>Boyle v. City of Puyallup</i>	Grants \$40,400 to plaintiffs. Settlement reached only after Puyallup changed their sweeps policy to require 72-hour notices and 60-day storage of belongings.	<a href="#">View Story</a>
Denver	2019 Feb	<i>Lyall v. City of Denver</i>	Grants \$30,000 to plaintiffs. Requires a 7-day written notice before sweeps. Requires that personal property be stored and tracked for 60 days, a provision which already existed in Denver's code but was being ignored by law enforcement and public works employees. Extends hours of operation for storage facility. Requires the provision of available storage lockers for individual use.	<a href="#">View Settlement</a>

DEFENDANT	DATE	CASE NAME	OUTCOME	SOURCE
California Department of Transportation	2019 June	<i>Sanchez v. Caltrans</i>	Active lawsuit against department of transportation workers for seizing and destroying property in which the plaintiffs received class certification.	<a href="#">View Court Order</a>
Orange County	2019 July	<i>Orange County Catholic Worker, et al. v. Orange County, et al.</i>	Requires that a person must be visited by a county health worker and shelter placement must be offered before enforcement and such placement must be in a location convenient for the person and meet each person's medical needs. If shelter is declined, an opportunity to relocate must be offered. If a citation is issued, the opportunity for diversion to Collaborative Court is required. Also establishes a grievance process	<a href="#">View Settlement</a>
Sonoma County	2019 July	<i>Vannucci v. County of Sonoma</i>	Enjoins the County from enforcing anti-camping laws without first offering adequate shelter and if refused, opportunity to relocate. Also establishes a grievance process to challenge the shelter provided.	<a href="#">View Court Order (PDF)</a>
Sutter County, Yuba City	2019 July	<i>Jeremiah v. Sutter County</i>	Active lawsuit in settlement negotiations. On April 5th, 2018 injunction prevents the County from seizing or destroying homeless persons' property.	<a href="#">View Court Order</a>
Grants Pass	2019 Aug	<i>Blake v. Grants Pass</i>	Active lawsuit against the City for enforcing its sleeping and camping bans. Plaintiffs were granted class certification.	<a href="#">View Court Order</a>
Roseburg	2019 Aug	<i>Claunch v. City of Roseburg</i>	Settlement Agreement requires the City to pay damages and legal fees. Requires the City to update its camp cleanup protocol, including implementing safeguard measures to protect property, redefining property to limit what can be thrown away during a clean up, and requiring clean-up crews to examine the interior of closed containers. Property must be stored for 30 days.	



## APPENDIX A

### Declarations of Homelessness States of Emergency

Below are the jurisdictions found that have enacted declarations of emergency in response to homelessness and housing crises since 2015. Of note, all are in the 9th Circuit.<sup>72</sup> Declaring a homelessness state of emergency has allowed some cities to temporarily suspend laws that ban lying, sleeping, and camping in public, in order to temporarily avoid exacerbating the plight of unhoused individuals. Some cities have used their states of emergency to temporarily suspended zoning and building codes in order to repurpose existing facilities into homeless shelters. And some cities have made declarations in order to redistribute funds for the purposes of providing sanitation services to homeless camps, erecting tiny houses, and expanding existing programs that serve homeless populations.

JURISDICTION	DATE	TYPE OF DECLARATION	OVERVIEW
Eugene	10/28/2015	Shelter Crisis	Declares housing and homelessness crisis; requests that the State (a) convene a work group of interagency partners and (b) appropriate additional funds. <sup>73</sup> <a href="#">View Resolution</a>
Portland	10/2/2015	State of Emergency	Amends city code to declare a housing emergency as a health and safety emergency; allows mass shelters as a temporary activity; amends zoning codes to remove obstacles to locating temporary shelters in appropriate zones; establishes a day storage pilot program; seeks state resources for mental health services. <sup>74</sup> <a href="#">View Declaration</a>

<sup>72</sup> The 9th Circuit is made up of Oregon, Washington, California, Idaho, Montana, Nevada, Arizona, Alaska and Hawaii.

<sup>73</sup> Text is from National Health Care for the Homeless Council's January 2016 report, Homeless States of Emergency: Advocacy Strategies to Advance Permanent Solutions [Hereinafter NHCHC Report] <https://www.nhchc.org/wp-content/uploads/2016/02/homeless-states-of-emergency-advocacy-strategies-to-advance-permanent-solutions.pdf>

<sup>74</sup> Id.

JURISDICTION	DATE	TYPE OF DECLARATION	OVERVIEW
Seattle	11/2/2015	Civil Emergency	Moved \$8 million from general fund into homeless services; expanded shelter beds, day center services, outreach service, and child care for homeless children; authorized some tent encampments; establishes programs to increase services and shelter for homeless youth in Seattle Public Schools. <sup>75</sup> <a href="#">View Declaration</a>
Tacoma	5/9/17	Public Health Emergency	Provides assistance to people in encampments including hygiene facilities, trash collection, sanitary facilities, temporary shelters, potable drinking water, solid waste disposal, human waste disposal, storage of property, safety, stable shelter, and connection to housing, social, public and mental health services. <sup>76</sup> <a href="#">View Declaration</a>
Sacramento	11/8/18	Shelter Crisis	Requires that citations for unlawful camping may only be issued upon the officer's confirming that a shelter bed is available, confirming that there are no barriers restricting the individual's access to it, offering to transport the individual to the accessible bed, and receiving a refusal to the offer. Requires that citations for unlawful storage may not be issued for any camping gear when there is insufficient shelter capacity. <sup>77</sup> <a href="#">View Resolution</a>

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<sup>75</sup> Id.

<sup>76</sup> Text is a summary of the original language of the ordinance rather than a summary of activities and outcomes based on the ordinance. These cities passed declarations since the NHCHC Report was published.

<sup>77</sup> Id.

JURISDICTION	DATE	TYPE OF DECLARATION	OVERVIEW
San Jose	12/8/15	Shelter Crisis	Suspends requirements of strict compliance to regulations and opens four City-owned facilities to be used as overnight warming shelters. <sup>78</sup> <a href="#">View Resolution</a>
Santa Rosa	8/9/2016	Shelter Crisis & Homeless Emergency	Resolution 28838 Directs the City Manager to evaluate City facilities so as to determine any potential for their use for emergency shelter, and to identify any state or local regulatory impediments to such use, and to report his findings to the Council within 60 days.  Resolution 28839 Directs the City Manager to return to the Council with a proposal to resume the City's Community Homeless Assistance Pilot Program. Directs the Council's subcommittee on homelessness to explore and propose options for short-term measures to address immediate health and safety concerns as well as more comprehensive long-term solutions to homelessness. <sup>79</sup> <a href="#">View Resolution, View Resolution</a>
Oakland	1/5/2016	Shelter Crisis	Opens public buildings for temporary shelter; creates report on steps to establish a tiny-house community; creates a standing order for addressing homeless shelters at future City Council meetings. <sup>80</sup> <a href="#">View Declaration</a>

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<sup>78</sup> Supra, FN 72

<sup>79</sup> Supra, FN 72

<sup>80</sup> Supra, FN 72

JURISDICTION	DATE	TYPE OF DECLARATION	OVERVIEW
L.A.	11/17/2015	Shelter Crisis	Initially was motion to declare an SOE, later changed to a shelter crisis; directs City Attorney to present an ordinance to maximize the City's authority to provide temporary shelter; implements a safe parking program, altering zoning and other codes for such; calls on a report on permanent supportive housing in addressing homelessness. <sup>81</sup> <a href="#">View Declaration</a> , <a href="#">View Declaration</a>
	4/17/2018	Shelter Crisis	Allows non-profit organizations and faith-based institutions the right to provide shelter without an onerous and costly process. Authorizes the use of city-owned property and facilities for emergency shelter. <sup>82</sup> <a href="#">View Declaration</a>
	4/17/2018	Ordinance	Establishes rules for using existing hotels and motels as supportive housing and transitional housing for unhoused people. <sup>83</sup> <a href="#">View Declaration</a>
San Diego	8/28/2015	State of Emergency	Declares SOE due to severe shortage of affordable housing, reauthorizes R-296982; calls for affordable housing impact statement on development projects; provides City Council monthly report on housing units approved for development and demolition; calls for development of strategic housing plan. <sup>84</sup> <a href="#">View Declaration</a>

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<sup>81</sup> Supra FN 72

<sup>82</sup> Supra FN 75

<sup>83</sup> Supra FN 75

<sup>84</sup> Supra FN 72

JURISDICTION	DATE	TYPE OF DECLARATION	OVERVIEW
Hawaii	10/16/2015	State of Emergency	<p>Suspends several statutes to expedite building of a temporary shelter for families; extends homeless service contracts without requiring a bid process; shifts \$1.3 mil from State's general fund.<sup>85</sup></p> <p><a href="#">View Declaration</a></p>

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<sup>85</sup> Supra FN 72

## APPENDIX B

### Eugene Municipal Court Docket June 2019 Analysis

JUNE DOCKET	WEEK 1	WEEK 2	WEEK 3	WEEK 4	TOTAL
Total Court Hearings	408	361	367	266	<b>1402</b>
Total Citations	823	696	641	448	<b>2608</b>
Unhoused Court Hearings	146	93	94	40	<b>373</b>
Unhoused Citations	354	229	219	88	<b>890</b>
Unhoused Vio. Park Rules	18	5	11	3	<b>37</b>
Unhoused Criminal TP II	111	83	71	30	<b>295</b>
Unhoused Proh. Camping	18	4	24	12	<b>58</b>
Unhoused Open Container	33	21	24	2	<b>80</b>

### Number of Community Court Hearings, June 2019

COMMUNITY COURT	WEEK 1	WEEK 2	WEEK 3	WEEK 4	TOTAL
Unhoused Court Hearings	25	19	23	8	<b>75</b>
Unhoused Citations	60	38	76	24	<b>198</b>
Unhoused Vio. Park Rules	3	0	2	0	<b>5</b>
Unhoused Criminal TP II	36	25	42	16	<b>119</b>
Unhoused Proh. Camping	1	0	0	0	<b>1</b>
Unhoused Open Container	13	4	19	1	<b>37</b>

### Findings from the Eugene Municipal Court Docket, June 2019

- ❑ 890 out of 2608 total citations went to unhoused people (34%).<sup>86</sup>
- ❑ 373 out of 1402 court hearings were for unhoused people (26%).
- ❑ 222 unhoused people appeared on the June 2019 docket.
- ❑ 151 Court hearings were for unhoused people with multiple appearances on the June docket.
- ❑ Unhoused people are at least 14 times (1,400%) more likely to receive a citation for a municipal violation in Eugene than housed people.<sup>87</sup>
- ❑ Of the four quality of life citations most frequently issued to unhoused people:
  - 295 out of the 890 citations to unhoused people were for Criminal Trespass II (33%).
  - 80 out of the 890 citations to unhoused people were for Open Container (9%).

<sup>86</sup> In addition to receiving citations, individuals are often arrested in connection with these violations.

<sup>87</sup> 222 unhoused people out of the total 2,165 Lane County PIT count population is 10%. 1180 housed people out of Eugene's remaining population of 166,751 is .7%.

- 58 out of the 890 citations to unhoused people were for Prohibited Camping (6%).
- 37 out of the 890 citations to unhoused people were for Violations of Park Rules (4%).

## Highlights of the 222 unhoused persons

- ❑ 60% (133) of the unhoused people on the June docket owe over \$1000 in unpaid fines.
- ❑ 31 owe over \$5k, 13 owe over \$10k, and 4 owe over \$20k.
- ❑ Since January 1, 2018:
  - 70% were cited for Criminal Trespass II (EC 4.807).
  - 40% were cited for Violation of Park Rules (EC 2.019).
  - 27% were cited for Prohibited Camping (EC 4.815).
  - 20% were cited for Open Container (EC 4.190).
  - 6% were cited for Public Urination or Defecation (EC 4.770).
- ❑ 57 of the 222 unhoused people on the June docket were identified as frequent users.<sup>88</sup>
  - The remaining 165 unique unhoused individuals on the June docket are not frequent users.

## Methodology

We calculated the total number of citations that appeared on the docket in June 2019 along with the total number of court hearings.<sup>89</sup> We then counted the number of citations and court hearings for people who were unhoused. Based on that data we determined the quality of life citations that are most frequently issued to people who are unhoused -- Violation of Park Rules, Criminal Trespass II, Prohibited Camping, and Open Container.

The Housed/Unhoused determination was made by viewing each person's record of prior violations. In those instances where housing status was unclear, we counted them as housed to avoid any risk of over counting the number of unhoused, therefore, the total number of unhoused who appeared on June's docket likely is low.

For every person identified as unhoused, we calculated the total number of quality of life citations received since January 1, 2018. We also calculated the total amount of outstanding fines for each unhoused person, which included the amount owed to the city and the total amount in collections.

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<sup>88</sup> We have defined frequent users are those who received five or more quality of life citations between January 1, 2018 and May 31, 2019.

<sup>89</sup> When a person was listed on the docket on one day in one court for several citations, that person was counted as one "court hearing." If the same person appeared on a different day or in a different court on the same day, he or she would be counted again as another court hearing. Based on these calculations we determined how many people were repeats on the docket.

## APPENDIX C

### Eugene Municipal Court Data Analysis

#### Quality of Life Citations January 1, 2018 – May 31, 2019

Violation	Unhoused	Housed	Total
4.815 Prohibited Camping	298 (100%)	0 (0%)	298
4.190 Open Container	419 (80%)	105 (20%)	524
2.019 Violation of Park Rules	657 (88%)	87 (12%)	747
4.807 Criminal Trespass II	1,759 (80%)	439 (20%)	2,198 <sup>90</sup>
<b>Total</b>	<b>3,133 (83%)</b>	<b>631 (17%)</b>	<b>3,767</b>

#### Data Highlights

- ❑ 83% of all citations for these four violations went to unhoused people.<sup>91</sup>
- ❑ 1,759 Criminal Trespass II citations were issued to unhoused people, an average of 3.4 per day.
- ❑ 657 Violation of Park Rules citations were issued to unhoused people.
- ❑ 419 Open Container citations were issued to unhoused people.
- ❑ 298 Prohibited Camping citations were issued to unhoused people.
  - Officers responded to 474 complaints of prohibited camping, and issued citations approximately 1/3 of the time.<sup>92</sup>
  - Consistent with EPD policy, only 18 citations were not complaint-based, but rather, were issued upon observation by an officer.
- ❑ On July 28, 2019, there were 128 active Notices of Restriction of Use for Parks.<sup>93</sup>
  - 22 were for 1 month and represent first restrictions.
  - 19 were for 3 months and represent second restrictions.

<sup>90</sup> Of note, 783 (35%) Criminal Trespass II violations involved arrests.

<sup>91</sup> In addition to receiving citations, individuals are often arrested in connection with these violations.

<sup>92</sup> The number of complaint responses by Eugene Police comes from a report generated and provided by EPD listing every complaint for Prohibited Camping that was responded to between January 1, 2018 and May 31, 2019.

<sup>93</sup> Report from Eugene Police Department: Active Notices of Restriction of Use as of July 28, 2019.



- 87 were for 1 year and represent third or beyond restrictions.
- 64 were issued along with citations for Violation of Parks Rules.
- 58 were issued along with citations for Criminal Trespass II.

With the list of Municipal Court quality of life citations from January 1, 2018 through May 31, 2019, we were able to identify 162 unique individuals as frequent users. We are defining the 162 frequent users as those who received five or more quality of life citations in the 17-month period.

- ❑ Out of the total 3,767 quality of life citations, 1,424 or 38% went to these 162 frequent users, at a rate of over 8:1.
- ❑ The remaining 62% or 2,343 quality of life citations went to 1,321 people, at a rate of less than 2:1.
- ❑ Of the 1,424 quality of life citations issued to the 162 frequent users,
  - 897 were for Criminal Trespass II,
  - 245 were for Open Container,
  - 151 were for Violations of Parks Rules, and
  - 131 were for Prohibited Camping.

### **Methodology**

We counted the total number of Municipal Court citations issued between January 1, 2018 and May 31, 2019 for each of the four quality of life violations that disproportionately impact the homeless. To calculate the percentage of unhoused people issued citations for the 17-month period, we analyzed the total number of citations issued for each of the four violations and the number issued to unhoused people for the month of March. We used this housed to unhoused ratio to estimate the total number of citations issued to unhoused people for each violation for the entire period of January 1, 2018 – May 31, 2019 (516 days).

### March 2019 Quality of Life Citations

Citations	Unhoused	Housed	TOTALS
4.815 Prohibited Camping	39 (100%)	0 (0%)	<b>39</b>
4.190 Open Container	28 (80%)	7 (20%)	<b>35</b>
2.019 Violation of Park Rules	23 (88%)	3 (12%)	<b>26</b>
4.807 Criminal Trespass II	129 (80%)	31 (20%)	<b>160</b>
<b>TOTALS</b>	<b>219</b>	<b>41</b>	<b>260</b>

### Data Highlights for March 2019

- ☐ Only 2 citations went to housed people already cited that month.
- ☐ 64 citations went to unhoused people already cited that month.
- ☐ 41 Citations went to 39 housed people.
- ☐ 219 Citations went to 156 unhoused people.

## APPENDIX D

### Additional Violations that Target the Unhoused

The violations below are ones that disproportionately target the unhoused. Section I is a list of violations for which citations were issued and hearings were scheduled in Municipal Court between January 1, 2018 and May 31, 2019, almost all of which are a direct consequence of being unhoused. Section II is a list of additional ordinances that disproportionately impact the unhoused.

#### **Citations issued to the unhoused:**

- ✓ Pedestrian Leaving
- ✓ Curb (ORS 814.040).
- ✓ Pedestrian Failure to Cross at Right Angle (EC 5.425).
- ✓ Theft of Services (EC 4.930).
- ✓ Storage on Street (EC 5.135).
- ✓ Dog at Large (EC 4.435).
- ✓ Downtown Activity Zone Prohibited Acts (EC 4.872).
- ✓ Prohibited (EC 4.427)
- ✓ Failure to Obey Pedestrian Control Device (ORS 814.020).
- ✓ Use of Marijuana in a Public Place (EC 4.241)
- ✓ Smoking in a Prohibited Area (EC 6.230)
- ✓ Interference with Public Transport (EC 4.977)
- ✓ Dogs – Certain Areas

#### **Violations as a direct result of being unhoused:**

- ✓ Prohibited Nudity (4.760)
- ✓ Urinating or Defecating (4.770)
- ✓ Littering
- ✓ Obstructing Street (5.130)
- ✓ Obstructing Sidewalk (4.707)
- ✓ Pedestrian Failure to Yield Right of Way Class D
- ✓ Pedestrian Unlawful Use of Road Class D
- ✓ Dogs License Requirements (4.395)
- ✓ Noise Disturbance

**POLICY  
820**

**EFFECTIVE  
DATE  
3-2-18**

**Eugene  
Police Department**



## **De-escalation**

### **820.1 PURPOSE AND SCOPE**

De-escalation is designed to reduce the need to use force, recognize the sanctity of life, protect officers from harm, reduce injuries to subjects and build community trust. This policy provides guidance as to the expectations of the Eugene Police Department in the application of de-escalation.

### **820.2 DEFINITIONS**

- a. De-escalation: Tactics and techniques used by officers, when safe and without compromising law enforcement priorities, which seek to minimize the likelihood of the need to use force during an incident, and increase the likelihood of voluntary compliance.

### **820.3 POLICY**

Officers should make every reasonable effort to de-escalate confrontations to prevent the need to use force. When a subject's actions create an imminent threat to the public or to officers, it is expected that officers will respond with reasonable and decisive force.

De-escalation techniques and tactics include, but are not limited to:

- a. Tactical communications, including active listening. Communication with the subject should be limited to one officer at a time in order to ensure clear communication.
- b. Requesting and utilizing additional officers whenever necessary. If one officer is unable to build rapport with a subject, another officer should be given an opportunity to communicate with the subject whenever reasonably possible.
- c. Leveraging time by slowing down the situation:
  - 1. When safe and feasible under the totality of circumstances, officers shall attempt to slow down or stabilize the situation so that more time, options and resources are available for incident resolution.

2. When time and circumstances reasonably permit, officers shall assess and accommodate, whether a subject's lack of compliance is a deliberate attempt to resist, or an inability to comply based on factors including, but not limited to:
  - Medical conditions
  - Mental impairment
  - Developmental disability
  - Physical limitation
  - Language barrier
  - Drug interaction
  - Behavioral crisis
  - Emotional Response / Fear
- d. Creating and maintaining distance, while utilizing cover, and concealment.
- e. Tactical positioning, repositioning and pause.
- f. Remaining calm, and professional.

## **EPD/Lane Regional CIT Talking Points**

February 2020

### **40 Hour Community Based Curriculum** (presented by community partners)

- NAMI (National Alliance on Mental Illness)
- LCBH (Lane Co Behavioral Health)
- LCHS (Lane Co Health & Human Services)
- Vet Center/VA
- Child Center
- Willamette Valley Treatment Center
- Law Enforcement agencies
- Lane County District Attorney's Office
- University District Hospital ED
- CAHOOTS
- Private Practice Mental Health Practitioners
- University of Oregon
- Person's With Lived Experience & Family Panels
- Site Visits (Johnson Unit, Buckley House, Eugene Mission, Hourglass)

### **CIT Training Topics:** (see Course Outlines)

- Mental Illness signs/symptoms and recognition
- PTSD (Post-Traumatic Stress Disorder) and TBI (traumatic Brain Injury)
- Adult/Youth Crisis Intervention
- Civil Commitment Process
- Legal Topics (Police Officer Holds, Criminal Charges)
- Agency Policy and Procedures
- Autism & Intellectual Developmental Disabilities
- Alzheimer's and Dementia Awareness
- Suicide Prevention
- Tactical Communications
- Excited Delirium

### **Additional CIT/MH training Provided:**

- DPSST Certification Maintenance Training – 3 hours/3 years
- Mental Health First Aid – Adults course
- Mental Health First Aid – Police courses
- Regional Guest Lecturers

**Lane County Regional Crisis Intervention Team Training**  
**April 2nd - April 5, 2018**

63

Hours	Monday	Tuesday	Wednesday	Thursday
0800 - 0830	Inroduction to CIT	Autism/IDD	Site Visits	Vets Center/ PTSD
0830 - 0900				
0900 - 0930	"In Our Own Voices"			
0930 - 1000	Consumer Panel	Juvenile Crisis/ Kids First		Excited Delirium
1000 - 1030				
1030 - 1100	Laurel Hill	Family Panel		
1100 - 1130	Hearing Voices			
1130 - 1200	LUNCH	LUNCH	LUNCH	LUNCH
1200 - 1230				
1230 - 1300	Hearing Voices	Adult Crisis/Managing Uncivil Behavior	Tactical Communications	ED Protocols/Civil Commitments
1300 - 1330				
1330 - 1400				
1400 - 1430	Mental Illness Signs & Symptoms	Adult Crisis Intervention & De-Escalation		Mental Illness & the Law
1430 - 1500				
1500 - 1530				
1530 - 1600		CAHOOTS/ Whitebird		
1600 - 1630				
1630 - 1700				
1700 - 1730		"Triggered"	CORT/ Community Court	
1730 - 1800	Debrief/Evals	Debrief/Evals	Debrief/Evals	Graduation

**POLICY**  
**418**

**EFFECTIVE**  
**DATE**  
**7-20-15**

**Eugene**  
**Police Department**



## **Mental Health Crisis Response**

### **418.1 PURPOSE AND SCOPE**

Individuals who are experiencing a mental health crisis can pose a significant challenge to police officers. Such a person can behave in an unpredictable manner, and can pose a safety hazard to him or herself, to police officers, and/or to others. The Eugene Police Department will strive to de-escalate the situation and deal with such a person in a compassionate yet safe manner in order to protect the individual, the public, and officers. A person experiencing a mental health crisis will be taken into custody only when he or she has committed a criminal offense; has a valid detention order against him or her; or has demonstrated by his or her actions, as observed by a reliable person, that he or she poses a danger to him or herself or to others and is in need of immediate care, custody, or treatment for a mental illness.

### **418.2 DEFINITIONS**

**Person in crisis:** This term refers to an individual whose level of distress or mental health symptoms have exceeded the person's internal ability or coping skills to manage his/her behavior or emotions. A crisis can be precipitated by any number of things, including a cyclical increase in symptoms of mental illness despite treatment compliance, non-compliance with treatment (most notably failure to take prescribed medications appropriately), or any other circumstance or event that causes the person to engage in erratic, disruptive, or dangerous behavior, often accompanied by impaired judgment.

**CIT Officer:** Any sworn employee who has successfully completed the core 40-hour CIT training.

**CIT Coordinator:** The CIT Coordinator, who is appointed by the Chief of Police or designee, will be a sworn employee holding the rank of Sergeant or above who is responsible for the administration of the CIT program.

**De-escalate:** A deliberate attempt to reduce the necessity or intensity of force to resolve confrontation.

**Delaying Custody:** A tactic that can be used if the officer determines immediately taking the person into custody may result in an undue safety risk.

**Disengagement:** The intentional decision, based on the totality of circumstances, to discontinue contact after the initial attempts with a person in crisis.



**Non-engagement:** The intentional decision, based on the totality of circumstances, not to make contact with a person in crisis.

### **418.3 PROCEDURE**

- (a) Crisis Intervention Team (CIT) training: All sworn officers will attend CIT training during the Oregon DPSST Basic Academy or during a separate training class. CIT refresher training will be conducted during in-service training. Officers are expected to use their CIT training when responding to incidents involving persons in crisis due to a known or perceived mental illness.
- (b) Response to Persons Affected by Mental Illness or in Crisis:  
Any officer responding to persons exhibiting abnormal behavior or symptoms of mental illness or mental health crisis should carefully consider the following actions to manage the situation for the safety of all at the scene:
  - 1. Any available information which might assist in determining the cause and nature of the behavior, including information about any prior mental health crises.
  - 2. Conflict resolution and de-escalation techniques for potentially dangerous situations involving persons in crisis.
  - 3. Appropriate language usage when interacting with persons in crisis.
  - 4. Community resources which may be readily available to assist (e.g., CAHOOTS, caregiver or personal advocate.)
  - 5. If force is required and circumstances permit, alternatives to lethal force should be considered when dealing with potentially dangerous individuals.
  - 6. Evaluate the nature of the situation and necessity for police intervention or referral.
  - 7. If police intervention is necessary, evaluate if the contact should be made by phone or in person.
  - 8. If police intervention is necessary, evaluate the need to utilize additional cover officers and the ability to notify and/or utilize a supervisor.
  - 9. Evaluate the need for assistance from individuals with specialized training in dealing with mental illness or crisis situations (e.g. Crisis Negotiator, CAHOOTS.)

#### **418.3.1 RECOGNIZING ABNORMAL BEHAVIOR**

- (a) Mental illness is often difficult for even the trained professional to define in a given individual. Officers are not expected to diagnose an individual experiencing a mental health crisis, but rather to recognize behavior that is potentially dangerous to the individual or others.

- (b) Listed below are some general signs and symptoms of behavior that may suggest a mental health crisis. Officers should not rule out other potential causes, such as physical injury, reactions to narcotics, alcohol, or medication, or temporary emotional disturbances that are situationally motivated. Officers should evaluate the following and related symptomatic behavior in the total context of the situation when making determinations about an individual's mental state and the need for intervention if a crime has not been committed.
1. Strong and unrelenting fear of persons, places, or things
  2. Extremely inappropriate behavior for a given context
  3. Extreme rigidity or inflexibility
  4. Abnormal memory loss (such as inability to remember name or date)
  5. Delusions that are clearly false
  6. Hallucinations
  7. Extreme fright or depression
  8. Belief that one suffers from extraordinary physical maladies that are not possible (such as a belief that the heart has stopped beating for an extended period of time.)

#### **418.3.2 ASSESSING RISK**

- (a) Not all persons who are experiencing a mental health crisis are dangerous; some may be victims, and some may present a danger only under certain circumstances or conditions. In addition to specific factors relevant to the individual's behavior, the volatility of the environment must also be evaluated.
- (b) The following is a list of some indicators which may indicate that the person represents an immediate or potential danger to himself/herself or others:
1. Availability of weapons
  2. Statements by the person that suggest that s/he is prepared to commit a violent or dangerous act
  3. A personal history that reflects prior violence under similar or related circumstances
  4. Loss of control of emotions (e.g., rage, anger, fright, agitation)

#### **418.3.3 INITIAL RESPONSE**

- (a) If a police response involves a situation where a person is believed to be in crisis, a CIT trained officer should be dispatched, if available.
- (b) Emergency lights and siren should be used only when urgency is required, and these devices should be turned off as soon as possible upon arrival.

- (c) An officer who is dealing with a person in crisis should attempt to establish a safe environment that will be conducive to successful de-escalation and resolution of the incident.

#### **418.3.4 DISPOSITIONS**

Officers will consider the nature of the situation and the behavior of the involved person in crisis in determining the appropriate disposition of the person. Officers will normally choose from the following options:

- (a) Determine that no further police involvement is necessary, and terminate the contact with the person. Consider referring the person to his/her caregiver or personal advocate, if available.
- (b) Refer the person to a mental health agency, crisis hotline, or other related service agency.
- (c) Consult with a mental health or medical professional, or request a response from CAHOOTS when they are on duty.
- (d) Transport the person to a mental health or medical facility for voluntary care when no other means of transportation is readily available. The person should not be dangerous, and should be able to manage his/her behavior. Officers should escort the person into the waiting area and introduce the person to facility staff. There is no requirement to stand by. A report will be prepared documenting the incident and transport.
- (e) Take the person into custody on a peace officer hold (ORS 426.228) when there is probable cause to believe the person is a danger to self or any other person, or is unable to provide for basic personal needs and is not receiving the care necessary for health and safety, and is in need of immediate care, custody, or treatment for mental illness.
- (f) Where there is a minor criminal offense and the individual is suffering from a mental health crisis that does not rise to the level of a police officer's hold, the person should be cited in lieu of custody with an attempt to access resources in the field. In the absence of resources and a community interest in removing the individual from further incidents is apparent, the subject can be transported to jail and lodged.
- (g) When there is sufficient information for a police officer's hold and there is probable cause to believe the individual has committed a crime that does not require mandatory custody, or the crime is a C felony or lessor offense, the officer should cite in lieu of custody and proceed with the police officer hold process.
- (h) When there is sufficient information for a police officer's hold and there is probable cause to believe the individual has committed a crime requiring mandatory custody, the individual should be taken into custody and transported and lodged at the Lane County Jail. Notification and details of the mental health crisis should be provided to the jail staff.

- (i) Non-engagement or disengagement are tactics that can be used if the officer determines that contact or continued contact with the person will result in an undue safety risk to the person, public, and/or officers. Officers will notify a supervisor and then determine whether to develop a plan to make contact at a different time or under different circumstances. A report will be written documenting the circumstances.
- (j) Delaying custody is a tactic that can be used if the officer determines that taking the person into custody under the present circumstances may result in an undue safety risk to the person, the public, and/or officers. Officers will notify a supervisor and then develop a plan to determine a safer time and method to take the person into custody (civil). A report will be written documenting the circumstances.
- (k) Any report involving the use of a CIT officer will be routed to the CIT coordinator. If no report is taken, an FI card will be completed and routed to the CIT coordinator. The card will include the Event Number and a brief description of the incident's resolution.

#### **418.4 AUTHORITY FOR CUSTODY**

The commitment of a person to a treatment facility or other confinement is controlled by *ORS 426.070 through 426.228*. Definitions applicable to these ORS sections can be found in *ORS 426.005*.

- (a) Peace Officer Hold- *ORS 426.228* authorizes peace officers to take into custody a person who the officer has probable cause to believe is dangerous to self or to any other person and is in need of immediate care, custody, or treatment for mental illness. The officer will transport the person to the nearest hospital or non-hospital facility approved by the Department of Human Services (normally the Behavioral Health Unit, via the Emergency Room at Sacred Heart Medical Center, University Campus) and notify the community Mental Health Director or designee. The officer will prepare a report and will state:
  - 1. the reason for the custody
  - 2. the date, time, and place the person was taken into custody
  - 3. the name and phone number of the Community Mental Health Director
- (b) Director's Hold- An officer may also be requested to take a person into custody at the direction of the Community Mental Health Director who has placed a Director's Hold on that person.
  - 1. Verify the authority of the person signing the Director's Custody Report
  - 2. Take the person named on the Director's Custody Report into custody
  - 3. Obtain the Director's Custody Report from the director or designee and transport

the person to the medical facility as designated by the director.

- (c) If the attending physician finds the person to be in need of emergency care or treatment for mental illness, the officer may be requested to transport the person to an appropriate care facility. If the physician determines that the person is not in need of emergency care or treatment for mental illness, the person is to be released from custody. The officer will return the person to the place where the person was taken into custody unless the person declines that service.
- (d) *Psychiatric Security Review Board (PSRB) Order of Revocation-* Under ORS 161.375(4), the PSRB has the authority to take PSRB supervised persons into custody on Revocation Orders, which are comparable to arrest warrants and subject to the same rules. When an officer is notified of a PSRB Revocation Order, typically through PSRB Law Enforcement Data Systems (LEDS) message reading: "No Criminal Warrant, PSRB order for mandatory return to Oregon State Hospital," the officer shall:
  - 1. Take the person named in the Revocation Order into custody and notify a supervisor.
  - 2. Ensure the Oregon state Hospital Communication Center is notified; the phone number can be found in the PSRB LEDS message.
  - 3. Transport, with one other officer, the person to the Oregon State Hospital Communication Center and notify a supervisor of the transport.
  - 4. Document the incident in a police report.
- (e) *Patients Eloped from Mental Health Facilities-* Officers may be requested to take patients that elope from facilities into custody. This will be done only when the situation meets one of the following criteria:
  - 1. The patient eloped from a state hospital after being committed under ORS 181.530, due to a conviction of a crime or committed as sexually dangerous. Notice can be in writing or by teletype. Be mindful that PSRB arrest orders expire seventy-two (72) hours after being signed.
  - 2. The civilly committed person unlawfully eloped from a residential facility and the facility produced the order of commitment and requested the assistance of a peace officer pursuant to ORS 426/223.
  - 3. An eloped patient is deemed to be a danger to him or herself or others.
  - 4. If the eloped patient meets one or more of the above criteria, officers should:
    - (a) Take the eloped patient into custody and transport them back to the facility they eloped from, if stable enough to return, or transport to the nearest designated hospital.
- (f) *Assisting Hospitals with Patients with Mental Illness and Walk-Aways-* Officers will not become involved in incidents within a secure evaluation unit or an emergency care hospital, unless the officer is bringing in a patient requiring immediate detention to prevent an assault or other crime. Officers will not take into custody voluntarily

admitted patients who have walked away from a hospital or facility, unless their actions at the time indicate they are a danger to themselves or others and are in need of immediate care, custody, and treatment for mental illness.

## **418.5 OFFICER CONSIDERATIONS AND RESPONSIBILITIES**

### **418.5.1 TRANSPORTATION**

When transporting any individual for a mental health commitment, the handling officer should have Central Lane Communications notify the receiving facility of the estimated time of arrival, the level of cooperation of the patient, and whether or not any special medical care is needed.

Officers may transport patients in the patrol unit and will secure them in accordance with the handcuffing policy. Violent patients or those that are medically unstable may be restrained and transported by ambulance with an officer accompanying ambulance personnel. The officer will escort the patient into the facility and place that person in a designated treatment room as directed by a staff member.

If more than one hour will be required to transport the person to the hospital or non-hospital facility from the location where the person was taken into custody, the officer must obtain, if possible, a certificate from a physician who has examined the person within the last 24 hours stating that the travel will not be detrimental to the person's physical health, and that the person is dangerous to self or to any other person and is in need of immediate care or treatment for mental illness (*ORS 426.228[3]*).

### **418.5.2 RESTRAINTS**

If the patient is violent or potentially violent, the officer will notify the staff of this concern. The staff member in charge will have discretion as to whether soft restraints will be used. If these restraints are desired, the officer will wait while they are being applied to help provide physical control of the patient, if needed.

### **418.5.3 MENTAL HEALTH DOCUMENTATION**

The officer will also provide a verbal summary to an emergency department staff member regarding the circumstances leading to the involuntary detention.

### **418.5.4 SECURING OF WEAPONS**

If a receiving center and/or secured facility prohibit weapons, or if an extraordinary event occurs in the treatment facility and officers determine a need to secure their firearms, the firearms will be secured in the appropriate gun locker at the facility or in the police unit.

## **418.6 SEIZING FIREARMS AND OTHER WEAPONS**

Whenever a person has been detained or apprehended for examination pursuant to *ORS 426.228* and is found to own, or to have in his/her possession or under his/her control, any firearm, it should normally be taken into temporary custody by the handling officer when there is legal authority to do so if the officer reasonably believes the weapon represents a danger to the person or others if the person is released. Examples of such authority would be that the weapon is being seized as evidence of a crime, or that it is being taken for safekeeping with consent from a person authorized to give such consent. The weapon will be booked into Evidence Control Unit (ECU) pending disposition.

A weapon seized as evidence may be released once it is no longer needed as evidence. A weapon taken into custody for safekeeping will be returned to the lawful owner upon request unless a court order or other legal authority authorizes that it be retained, in which case it will be released when specified by the court order or required by other legal authority.

Prior to releasing any weapon, ECU personnel will ensure that the person to whom the weapon is being released is legally eligible to possess the weapon.

#### **418.7 TRAINING**

As a part of advanced officer training programs, this agency will include DPSST-approved and/or locally-based Crisis Intervention Team (CIT) training for all sworn employees. CIT is designed to resolve police encounters with people experiencing a mental or emotional crisis safely and, when appropriate, link these individuals to mental health supports and services that reduce the chances for future interactions with the criminal justice system. To accomplish this, CIT sworn personnel work in conjunction with dispatchers, CAHOOTS, and area mental health providers.

The CIT Program will be administered by the CIT Coordinator. He or she will be responsible for sworn officer's initial and on-going training. The CIT Coordinator will review all crisis incidents in which CIT officers are used, and will compile and report on data gathered from those incidents.

## Procedure 9.3

**EFFECTIVE  
DATE  
8-1-04**

# Eugene Police Department



## Crisis Negotiation Team

### 9.3.1 PURPOSE AND SCOPE

The Crisis Negotiation Team (CNT) provides special assistance during critical situations such as hostage-taking, armed barricaded subjects, sniper incidents, domestic violence, and high-risk suicidal subjects.

#### PART I - Responsibilities and Procedures for All Personnel

- A. Generally
- B. Call-out criteria

### 9.3.2 RESPONSIBILITIES AND PROCEDURES FOR ALL PERSONNEL

- a. Generally
  - 1. The CNT responds anytime SWAT is called out (refer also *Policy 901 – Special Weapons and Tactics*).
  - 2. The CNT may also be used in other situations where the expertise of a negotiator would be valuable, such as suicidal persons.
  - 3. The CNT supervisor may, and usually will, respond anytime that negotiators are requested.
- b. Call-out criteria
  - 1. CNT personnel may be called out as needed by a sworn supervisor via the CNT Supervisor, or as indicated in the computerized call-out list.
  - 2. Supervisors are encouraged to use on-duty negotiators whenever possible. If a negotiator is used, notify the CNT Supervisor.
  - 3. The CNT Supervisor will ultimately determine how many negotiators are needed, based on such factors as the complexity and circumstances of the incident. A minimum of three negotiators should normally be called for any incident requiring a negotiator



**HRC Homelessness and Poverty Work Group  
February 12, 2020**

Present: Commissioners Serena M and Kirstin L; Heather, facilitator; Majeska, minutes;  
(Complete list of attendees was not provided).

**Criminalization report update and action.** Following an update from Laurie on the near-final report by Legal Aid of Lane County and final comments and feedback, a motion was passed unanimously to endorse the report and forward it to the Human Rights Commission, with a recommendation that the Commission endorse the report and ask for a City Council work session addressing the report.

**Film “The Invisible Class.”** Brief discussion about the showing by Encircle Films, and work group’s intentions to hold free public showings to reach a variety of audiences.

**Affordable Housing Trust Fund Advisory Committee.** Paula, who is on the advisory committee, gave an update.

Other topics addressed briefly were another death of a person who was homeless, and escalating tensions around Eugene Wake Up following a protest inside Elk Horn Brewery.

Update from Police Commission meeting on 2/13/20  
By Amanda McCluskey

**Meeting the K-9 Unit**

We discussed how the dogs are trained and used. Of note was improvements they have made to how the dogs are trained to bite to minimize injury.

**Deadly Force Investigations (810) Process Overview**

We discussed how investigations are conducted. The chief mentioned they are making improvements to interviewing juvenile witnesses to be more trauma informed. We discussed the selection process for the interagency deadly force investigations team. This team is comprised of law enforcement staff from all of the law enforcement agencies in Lane County. Detectives with specific experiences and training are selected for this team.

**Chief's Report**

The chief discussed five new hires he is making

**Downtown Police Commission Priorities Discussion Community Outreach Update**

We discussed the work of the downtown officers. Access to bathrooms was discussed at length. They have not found ways to make bathrooms accessible while also keeping them safe.